

§ 0.302

§ 0.302 Service with other Federal agencies.

A special Government employee serving concurrently in the Department and in a Federal agency other than the Department is required to inform the Department and the agency in which he serves of the arrangement so that appropriate administrative measures may be taken.

Subpart D—Advisers to the Department

§ 0.401 Advisers to the Department.

(a) An adviser or advisory committee member includes an individual who provides advice to the Department as a representative of an outside group and is not an employee or special Government employee of the Department. Questions concerning whether an individual serves the Department in the capacity of an adviser, employee, or special Government employee shall be addressed to the Designated Agency Ethics Official or a Deputy Ethics Official.

(b) Advisers or advisory committee members are not required to follow the Rules and are not generally required by the Department to file financial disclosure statements; nevertheless, they should be guided by the regulations in this part covering such issues as public disclosure of official information (§ 0.206), conduct (§ 0.211 and § 0.213), and gifts or gratuities from Foreign governments (§ 0.203).

PART 1—DISCLOSURE OF RECORDS

Subpart A—Freedom of Information Act

Sec.

- 1.1 General.
- 1.2 Information made available.
- 1.3 Publication in the FEDERAL REGISTER.
- 1.4 Public inspection and copying.
- 1.5 Specific requests for other records.
- 1.6 Business information.

31 CFR Subtitle A (7–1–00 Edition)

- 1.7 Fees for services.

APPENDICES TO SUBPART A

- APPENDIX A—DEPARTMENTAL OFFICES
- APPENDIX B—INTERNAL REVENUE SERVICE
- APPENDIX C—UNITED STATES CUSTOMS SERVICE
- APPENDIX D—UNITED STATES SECRET SERVICE
- APPENDIX E—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
- APPENDIX F—BUREAU OF ENGRAVING AND PRINTING
- APPENDIX G—FINANCIAL MANAGEMENT SERVICE
- APPENDIX H—UNITED STATES MINT
- APPENDIX I—BUREAU OF THE PUBLIC DEBT
- APPENDIX J—OFFICE OF THE COMPTROLLER OF THE CURRENCY
- APPENDIX K—FEDERAL LAW ENFORCEMENT TRAINING CENTER
- APPENDIX L—OFFICE OF THRIFT SUPERVISION

Subpart B—Other Disclosure Provisions

- 1.8 Scope.
- 1.9 Records not to be otherwise withdrawn or disclosed.
- 1.10 Oral information.
- 1.11 Testimony or the production of records in a court or other proceeding.
- 1.12 Regulations not applicable to official request.

Subpart C—Privacy Act

- 1.20 Purpose and scope of regulations.
- 1.21 Definitions.
- 1.22 Requirements relating to systems of records.
- 1.23 Publication in the FEDERAL REGISTER—Notices of systems of records, general exemptions, specific exemptions, review of all systems.
- 1.24 Disclosure of records to person other than the individual to whom they pertain.
- 1.25 Accounting of disclosures.
- 1.26 Procedures for notification and access to records pertaining to individuals—format and fees for request for access.
- 1.27 Procedures for amendment of records pertaining to individuals—format, agency review and appeal from initial adverse agency determination.

Office of the Secretary of the Treasury

§ 1.1

- 1.28 Training, rules of conduct, penalties for non-compliance.
- 1.29 Records transferred to Federal Records Center or National Archives of the United States.
- 1.30 Application to system of records maintained by Government contractors.
- 1.31 Sale or rental of mailing lists.
- 1.32 Use and disclosure of social security numbers.
- 1.34 Guardianship.
- 1.35 Information forms.
- 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.

APPENDICES TO SUBPART C

APPENDIX A—DEPARTMENTAL OFFICES
APPENDIX B—INTERNAL REVENUE SERVICE
APPENDIX C—UNITED STATES CUSTOMS SERVICE
APPENDIX D—UNITED STATES SECRET SERVICE
APPENDIX E—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
APPENDIX F—BUREAU OF ENGRAVING AND PRINTING
APPENDIX G—FINANCIAL MANAGEMENT SERVICE
APPENDIX H—UNITED STATES MINT
APPENDIX I—BUREAU OF THE PUBLIC DEBT
APPENDIX J—OFFICE OF THE COMPTROLLER OF THE CURRENCY
APPENDIX K—FEDERAL LAW ENFORCEMENT TRAINING CENTER
APPENDIX L—OFFICE OF THRIFT SUPERVISION

AUTHORITY: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552, as amended. Subpart C also issued under 5 U.S.C. 552a.

SOURCE: 52 FR 26305, July 14, 1987, unless otherwise noted.

Subpart A—Freedom of Information Act

SOURCE: 65 FR 40504, June 30, 2000, unless otherwise noted.

§ 1.1 General.

(a) *Purpose and scope.* (1) This subpart contains the regulations of the Department of the Treasury implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended by the Electronic Freedom of Information Act Amendments of 1996. The regulations set forth procedures for requesting access to records maintained by the Department of the Treasury. These regulations apply to all bureaus of the Department of the Treasury. Any reference in this subpart to the Depart-

ment or its officials, employees, or records shall be deemed to refer also to the bureaus or their officials, employees, or records. Persons interested in the records of a particular bureau should also consult the appendix to this subpart that pertains to that bureau. The head of each bureau is hereby authorized to substitute the officials designated and change the addresses specified in the appendix to this subpart applicable to the bureau. The bureaus of the Department of the Treasury for the purposes of this subpart are:

(i) The Departmental Offices, which include the offices of:

(A) The Secretary of the Treasury, including immediate staff;

(B) The Deputy Secretary of the Treasury, including immediate staff;

(C) The Chief of Staff, including immediate staff;

(D) The Executive Secretary and all offices reporting to such official, including immediate staff;

(E) The Under Secretary of the Treasury for International Affairs and all offices reporting to such official, including immediate staff;

(F) The Under Secretary of the Treasury for Domestic Finance and all offices reporting to such official, including immediate staff;

(G) The Under Secretary for Enforcement and all offices reporting to such official, including immediate staff;

(H) The Assistant Secretary of the Treasury for Financial Institutions and all offices reporting to such official, including immediate staff;

(I) The Assistant Secretary of the Treasury for Economic Policy and all offices reporting to such official, including immediate staff;

(J) The Fiscal Assistant Secretary and all offices reporting to such official, including immediate staff;

(K) The General Counsel and all offices reporting to such official, including immediate staff; except legal counsel to the components listed in paragraphs (a)(1)(i)(L), and (a)(1)(i)(S), and (a)(1)(ii) through (xii) of this section;

(L) The Inspector General and all offices reporting to such official, including immediate staff;

(M) The Assistant Secretary of the Treasury for International Affairs and

§ 1.1

all offices reporting to such official, including immediate staff;

(N) The Assistant Secretary of the Treasury for Legislative Affairs and Public Liaison and all offices reporting to such official, including immediate staff;

(O) The Assistant Secretary of the Treasury for Management and Chief Financial Officer and all offices reporting to such official, including immediate staff;

(P) The Assistant Secretary of the Treasury for Public Affairs and all offices reporting to such official, including immediate staff;

(Q) The Assistant Secretary of the Treasury for Tax Policy and all offices reporting to such official, including immediate staff;

(R) The Treasurer of the United States, including immediate staff;

(S) The Treasury Inspector General for Tax Administration and all offices reporting to such official, including immediate staff.

(ii) The Bureau of Alcohol, Tobacco and Firearms.

(iii) The Office of the Comptroller of the Currency.

(iv) The United States Customs Service.

(v) The Bureau of Engraving and Printing.

(vi) The Federal Law Enforcement Training Center.

(vii) The Financial Management Service.

(viii) The Internal Revenue Service.

(ix) The United States Mint.

(x) The Bureau of the Public Debt.

(xi) The United States Secret Service.

(xii) The Office of Thrift Supervision.

(2) For purposes of this subpart, the office of the legal counsel for the components listed in paragraphs (a)(1)(ii) through (xii) of this section are to be considered a part of their respective bureaus. Any office which is now in existence or may hereafter be established, which is not specifically listed or known to be a component of any of those listed in paragraphs (a)(1)(i) through (xii) of this section, shall be deemed a part of the Departmental Offices for the purpose of making requests for records under this subpart.

31 CFR Subtitle A (7-1-00 Edition)

(b) *Definitions.* As used in this subpart, the following terms shall have the following meanings:

(1) *Agency* has the meaning given in 5 U.S.C. 551(1) and 5 U.S.C. 552(f).

(2) *Appeal* means a request for a review of an agency's determination with regard to a fee waiver, category of requester, expedited processing, or denial in whole or in part of a request for access to a record or records.

(3) *Bureau* means an entity of the Department of the Treasury that is authorized to act independently in disclosure matters.

(4) *Business information* means trade secrets or other commercial or financial information.

(5) *Business submitter* means any entity which provides business information to the Department of the Treasury or its bureaus and which has a proprietary interest in the information. (6) *Computer software* means tools by which records are created, stored, and retrieved. Normally, computer software, including source code, object code, and listings of source and object codes, regardless of medium, are not agency records. However, when data are embedded within the software and cannot be extracted without the software, the software may have to be treated as an agency record. Proprietary (or copyrighted) software is not an agency record.

(7) *Confidential commercial information* means records provided to the government by a submitter that arguably contain material exempt from release under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(8) *Duplication* refers to the process of making a copy of a record in order to respond to a FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others.

(9) *Electronic records* means those records and information which are created, stored, and retrievable by electronic means. This ordinarily does not include computer software, which is a tool by which to create, store, or retrieve electronic records.

Office of the Secretary of the Treasury

§ 1.3

(10) *Request* means any request for records made pursuant to 5 U.S.C. 552(a)(3).

(11) *Requester* means any person who makes a request for access to records.

(12) *Responsible official* means a disclosure officer or the head of the organizational unit having immediate custody of the records requested, or an official designated by the head of the organizational unit.

(13) *Review*, for fee purposes, refers to the process of examining records located in response to a commercial use request to determine whether any portion of any record located is permitted to be withheld. It also includes processing any records for disclosure; *e.g.*, doing all that is necessary to excise them and otherwise prepare them for release.

(14) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within records. Searches may be done manually or by automated means.

§ 1.2 Information made available.

(a) *General.* The FOIA (5 U.S.C. 552) provides for access to information and records developed or maintained by Federal agencies. The provisions of section 552 are intended to assure the right of the public to information. Generally, this section divides agency information into three major categories and provides methods by which each category of information is to be made available to the public. The three major categories of information are as follows:

(1) Information required to be published in the FEDERAL REGISTER (see § 1.3);

(2) Information required to be made available for public inspection and copying or, in the alternative, to be published and offered for sale (see § 1.4); and

(3) Information required to be made available to any member of the public upon specific request (see § 1.5).

(b) Subject only to the exemptions and exclusions set forth in 5 U.S.C. 552(b) and (c), any person shall be afforded access to information or records in the possession of any bureau of the Department of the Treasury, subject to

the regulations in this subpart and any regulations of a bureau implementing or supplementing them.

(c) *Exemptions.* (1) The disclosure requirements of 5 U.S.C. 552(a) do not apply to certain matters which are exempt under 5 U.S.C. 552(b); nor do the disclosure requirements apply to certain matters which are excluded under 5 U.S.C. 552(c).

(2) Even though an exemption described in 5 U.S.C. 552(b) may be applicable to the information or records requested, a Treasury bureau may, if not precluded by law, elect under the circumstances of that request not to apply the exemption. The fact that the exemption is not applied by a bureau in response to a particular request shall have no precedential significance in processing other requests, but is merely an indication that, in the processing of the particular request, the bureau finds no necessity for applying the exemption.

§ 1.3 Publication in the Federal Register.

(a) *Requirement.* Subject to the application of the exemptions and exclusions in 5 U.S.C. 552(b) and (c) and subject to the limitations provided in 5 U.S.C. 552(a)(1), each Treasury bureau shall, in conformance with 5 U.S.C. 552(a)(1), separately state, publish and maintain current in the FEDERAL REGISTER for the guidance of the public the following information with respect to that bureau:

(1) Descriptions of its central and field organization and the established places at which, the persons from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(2) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law,

§ 1.4

and statements of general policy or interpretations of general applicability formulated and adopted by the bureau; and

(5) Each amendment, revision, or repeal of matters referred to in paragraphs (a)(1) through (4) of this section.

(b) *The United States Government Manual.* The functions of each bureau are summarized in the description of the Department and its bureaus in the United States Government Manual, which is issued annually by the Office of the Federal Register.

§ 1.4 Public inspection and copying.

(a) *In general.* Subject to the application of the exemptions and exclusions described in 5 U.S.C. 552(b) and (c), each Treasury bureau shall, in conformance with 5 U.S.C. 552(a)(2), make available for public inspection and copying, or, in the alternative, promptly publish and offer for sale the following information with respect to the bureau:

(1) Final opinions, including concurring and dissenting opinions, and orders, made in the adjudication of cases;

(2) Those statements of policy and interpretations which have been adopted by the bureau but are not published in the FEDERAL REGISTER;

(3) Its administrative staff manuals and instructions to staff that affect a member of the public;

(4) Copies of all records, regardless of form or format, which have been released to any person under 5 U.S.C. 552(a)(3), and which the bureau determines have become or are likely to become the subject of subsequent requests for substantially the same records because they are clearly of interest to the public at large. The determination that records have become or may become the subject of subsequent requests shall be made by the Responsible Official (as defined at § 1.1(b)(12)).

(5) A general index of the records referred to in paragraph (a)(4) of this section.

(b) *Information made available by computer telecommunications.* For records required to be made available for public inspection and copying pursuant to 5 U.S.C. 552(a)(2) (paragraphs (a)(1) through (4) of this section) which are created on or after November 1, 1996, as soon as practicable but no later than

31 CFR Subtitle A (7-1-00 Edition)

one year after such records are created, each bureau shall make such records available on the Internet.

(c) *Deletion of identifying details.* To prevent a clearly unwarranted invasion of personal privacy, or pursuant to an exemption in 5 U.S.C. 552(b), a Treasury bureau may delete information contained in any matter described in paragraphs (a)(1) through (4) of this section before making such matters available for inspection or publishing it. The justification for the deletion shall be explained fully in writing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in 5 U.S.C. 552(b) under which the deletion is made. If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made.

(d) *Public reading rooms.* Each bureau of the Department of the Treasury shall make available for public inspection and copying, in a reading room or otherwise, the material described in paragraphs (a)(1) through (5) of this section. Fees for duplication shall be charged in accordance with § 1.7. See the appendices to this subpart for the location of established bureau reading rooms.

(e) *Indexes.* (1) Each bureau of the Department of the Treasury shall maintain and make available for public inspection and copying current indexes identifying any material described in paragraphs (a)(1) through (3) of this section. In addition, each bureau shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplement unless the head of each bureau (or a delegate) determines by order published in the FEDERAL REGISTER that the publication would be unnecessary and impractical, in which case the bureau shall nonetheless provide copies of the index on request at a cost not to exceed the direct cost of duplication.

(2) Each bureau shall make the index referred to in paragraph (a)(5) of this section available on the Internet by December 31, 1999.

§ 1.5 Specific requests for other records.

(a) *In general.* (1) Except for records made available under 5 U.S.C. 552(a)(1) and (a)(2), but subject to the application of the exemptions and exclusions described in 5 U.S.C. 552(b) and (c), each bureau of the Department of the Treasury shall promptly make the requested records available to any person in conformance with 5 U.S.C. 552(a)(3). The request must conform in every respect with the rules and procedures of this subpart and the applicable bureau's appendix to this subpart. Any request or appeal from the initial denial of a request that does not comply with the requirements in this subpart will not be considered subject to the time constraints of paragraphs (h), (i), and (j) of this section, unless and until the request is amended to comply. Bureaus shall promptly advise the requester in what respect the request or appeal is deficient so that it may be amended and resubmitted for consideration in accordance with this subpart. If a requester does not respond within 30 days to a communication from a bureau to amend the request in order for it to be in conformance with this subpart, the request file will be considered closed. When the request conforms with the requirements of this subpart, bureaus shall make every reasonable effort to comply with the request within the time constraints. If the description of the record requested is of a type that is not maintained by the bureau, the requester shall be so advised and the request shall be returned to the requester.

(2) This subpart applies only to records in the possession or control of the bureau at the time of the request. Records considered to be responsive to the request are those in existence on or before the date of receipt of the request by the appropriate bureau official. Requests for the continuing production of records created after the date of the appropriate bureau official's receipt of the request shall not be honored. Bureaus shall provide the responsive record or records in the form or format requested if the record or records are readily reproducible by the bureau in that form or format. Bureaus shall make reasonable efforts to maintain

their records in forms or formats that are reproducible for the purpose of disclosure. For purposes of this section, *readily reproducible* means, with respect to electronic format, a record or records that can be downloaded or transferred intact to a floppy disk, compact disk (CD), tape, or other electronic medium using equipment currently in use by the office or offices processing the request. Even though some records may initially be readily reproducible, the need to segregate exempt from nonexempt records may cause the releasable material to not be readily reproducible.

(3) Requests for information classified pursuant to Executive Order 12958, "Classified National Security Information," require the responsible bureau to review the information to determine whether it continues to warrant classification. Information which no longer warrants classification under the Executive Order's criteria shall be declassified and made available to the requester, unless the information is otherwise exempt from disclosure.

(4) When a bureau receives five or more requests for substantially the same records, it shall place those requests in front of an existing request backlog that the responsible official may have. Upon completion of processing, the released records shall be made available in the bureau's public reading room, and if created on or after November 1, 1996, shall be made available in the electronic reading room of the bureau's web site.

(b) *Form of request.* In order to be subject to the provisions of this section, the following must be satisfied.

(1) The request for records shall be made in writing, signed by the person making the request, and state that it is made pursuant to the Freedom of Information Act, 5 U.S.C. 552, or this subpart.

(2) The request shall indicate whether the requester is a commercial user, an educational institution, non-commercial scientific institution, representative of the news media, or "other" requester, subject to the fee provisions described in § 1.7. In order for the Department to determine the proper category for fee purposes as defined in this section, a request for

§ 1.5

records shall also state how the records released will be used. This information shall not be used to determine the releasability of any record or records. A determination of the proper category of requester shall be based upon a review of the requester's submission and the bureau's own records. Where a bureau has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, bureaus should seek additional clarification before assigning the request to a specific category. The categories of requesters are defined as follows:

(i) *Commercial*. A commercial use request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation. The bureaus may determine from the use specified in the request that the requester is a commercial user.

(ii) *Educational institution*. This refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research. This category does not include requesters wanting records for use in meeting individual academic research or study requirements.

(iii) *Non-commercial scientific institution*. This refers to an institution that is not operated on a "commercial" basis as that term is defined in paragraph (b)(2)(i) of this section, and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(iv) *Representative of the news media*. This refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. Examples of

31 CFR Subtitle A (7-1-00 Edition)

news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but bureaus may also look to the past publication record of a requester in making this determination.

(v) *"Other" Requester*. This refers to a requester who does not fall within any of the previously described categories.

(3) The request must be properly addressed to the bureau that maintains the record. The functions of each bureau are summarized in *The United States Government Manual* which is issued annually and is available from the Superintendent of Documents. Both the envelope and the request itself should be clearly marked "Freedom of Information Act Request." See the appendices to this subpart for the office or officer to which requests shall be addressed for each bureau. A requester in need of guidance in defining a request or determining the proper bureau to which a request should be sent may contact Disclosure Services at 202/622-0930, or may write to Disclosure Services, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220. Requesters may access the "FOIA Home Page" at the Department of the Treasury World Wide Web site at: <http://www.treas.gov>.

(4) The request must reasonably describe the records in accordance with paragraph (d) of this section.

(5) The request must set forth the address where the person making the request wants to be notified about whether or not the request will be granted.

(6) The request must state whether the requester wishes to inspect the records or desires to have a copy made

Office of the Secretary of the Treasury

§ 1.5

and furnished without first inspecting them.

(7) The request must state the firm agreement of the requester to pay the fees for search, duplication, and review as may ultimately be determined in accordance with § 1.7. The agreement may state the upper limit (but not less than \$25) that the requester is willing to pay for processing the request. A request that fees be waived or reduced may accompany the agreement to pay fees and shall be considered to the extent that such request is made in accordance with § 1.7(d) and provides supporting information to be measured against the fee waiver standard set forth in § 1.7(d)(1). The requester shall be notified in writing of the decision to grant or deny the fee waiver. A requester shall be asked to provide an agreement to pay fees when the request for a fee waiver or reduction is denied and the initial request for records does not include such agreement. If a requester has an outstanding balance of search, review, or duplication fees due for FOIA request processing, the requirements of this paragraph are not met until the requester has remitted the outstanding balance due.

(c) *Requests for records not in control of bureau; referrals; consultations.* (1) When a requested record is in the possession or under the control of a bureau of the Department other than the office to which the request is addressed, the request for the record shall be transferred to the appropriate bureau and the requester notified. This referral shall not be considered a denial of access within the meaning of these regulations. The bureau of the Department to which this referral is made shall treat this request as a new request addressed to it and the time limits for response set forth by paragraph (h)(1) of this section shall begin when the referral is received by the designated office or officer of the bureau.

(2) When a requested record has been created by an agency or Treasury bureau other than the Treasury bureau possessing the record, the bureau having custody of the record shall refer the record to the originating agency or Treasury bureau for a direct response to the requester. The requester shall be informed of the referral unless other-

wise instructed by the originating agency. This is not a denial of a FOIA request; thus no appeal rights accrue to the requester.

(3) When a FOIA request is received for a record created by a Treasury bureau that includes information originated by another bureau of the Department of the Treasury or another agency, the record shall be referred to the originating agency or bureau for review and recommendation on disclosure. The agency or bureau shall respond to the referring office. The Treasury bureau shall not release any such records without prior consultation with the originating bureau or agency.

(4) In certain instances and at the discretion of the Departmental Offices, requests having impact on two or more bureaus of the Department may be coordinated by the Departmental Offices.

(d) *Reasonable description of records.* The request for records must describe the records in reasonably sufficient detail to enable employees who are familiar with the subject area of the request to locate the records without placing an unreasonable burden upon the Department. Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipients, and subject matter of the record. If the Department determines that the request does not reasonably describe the records sought, the requester shall be given an opportunity to provide additional information. Such opportunity may, when necessary, involve a discussion with knowledgeable Department of the Treasury personnel. The reasonable description requirement shall not be used by officers or employees of the Department of the Treasury to improperly withhold records from the public.

(e) *Requests for expedited processing.* (1) When a request for records includes a request for expedited processing, both the envelope and the request itself must be clearly marked, "Expedited Processing Requested."

(2) Records will be processed as soon as practicable when a requester asks for expedited processing in writing and is granted such expedited treatment by the Department. The requester must

§ 1.5

demonstrate a compelling need for expedited processing of the requested records. A compelling need is defined as follows:

(i) Failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual. The requester shall fully explain the circumstances warranting such an expected threat so that the Department may make a reasoned determination that a delay in obtaining the requested records could pose such a threat; or

(ii) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity. A person "primarily engaged in disseminating information" does not include individuals who are engaged only incidentally in the dissemination of information. The standard of "urgency to inform" requires that the records requested pertain to a matter of current exigency to the American public and that delaying a response to a request for records would compromise a significant recognized interest to and throughout the American general public. The requester must adequately explain the matter or activity and why the records sought are necessary to be provided on an expedited basis.

(3) A demonstration of a compelling need by a person making a request for expedited processing shall be made by a statement certified by the requester to be true and correct to the best of his or her knowledge and belief. The statement must be in the form prescribed by 28 U.S.C. 1746, "I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on [date]."

(4) Upon receipt by the appropriate bureau official, a request for expedited processing shall be considered and a determination as to whether to grant or deny the request for expedited processing shall be made, and the requester notified, within 10 calendar days of the date of the request. However, in no event shall the bureau have fewer than five days (excluding Saturdays, Sundays, and legal public holidays) from the date of receipt of the request for

31 CFR Subtitle A (7-1-00 Edition)

such processing. The determination to grant or deny a request for expedited processing may be made solely on the information contained in the initial letter requesting expedited treatment.

(5) Appeals of initial determinations to deny expedited processing must be made within 10 calendar days of the date of the initial letter of determination denying expedited processing. Both the envelope and the appeal itself shall be clearly marked, "Appeal for Expedited Processing."

(6) An appeal determination regarding expedited processing shall be made, and the requester notified, within 10 days (excluding Saturdays, Sundays, and legal public holidays) from the date of receipt of the appeal.

(f) *Date of receipt of request.* A request for records shall be considered to have been received on the date on which a complete request containing the information required by paragraph (b) of this section has been received. A determination that a request is deficient in any respect is not a denial of access, and such determinations are not subject to administrative appeal. Requests shall be stamped with the date of receipt by the office prescribed in the appropriate appendix. As soon as the date of receipt has been established, the requester shall be so informed and shall also be advised when to expect a response. The acknowledgment of receipt requirement shall not apply if a disclosure determination will be issued prior to the end of the 20-day time limit.

(g) *Search for record requested.* Department of the Treasury employees shall search to identify and locate requested records, including records stored at Federal Records Centers. Searches for records maintained in electronic form or format may require the application of codes, queries, or other minor forms of programming to retrieve the requested records. Wherever reasonable, searches shall be done by electronic means. However, searches of electronic records are not required when such searches would significantly interfere with the operation of a Treasury automated information system or would require unreasonable effort to conduct. The Department of the Treasury is not required under 5 U.S.C. 552 to tabulate or compile information for the purpose

Office of the Secretary of the Treasury

§ 1.5

of creating a record or records that do not exist.

(h) *Initial determination.* (1) *In general.* The officers designated in the appendices to this part shall make initial determinations either to grant or to deny in whole or in part requests for records. Such officers shall respond in the approximate order of receipt of the requests, to the extent consistent with sound administrative practice. These determinations shall be made and the requester notified within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the date of receipt of the request, as determined in accordance with paragraph (f) of this section, unless the designated officer invokes an extension pursuant to paragraph (j)(1) of this section or the requester otherwise agrees to an extension of the 20-day time limitation.

(2) *Granting of request.* If the request is granted in full or in part, and if the requester wants a copy of the records, a copy of the records shall be mailed to the requester, together with a statement of the applicable fees, either at the time of the determination or shortly thereafter.

(3) *Inspection of records.* In the case of a request for inspection, the requester shall be notified in writing of the determination, when and where the requested records may be inspected, and of the fees incurred in complying with the request. The records shall then promptly be made available for inspection at the time and place stated, in a manner that will not interfere with Department of the Treasury operations and will not exclude other persons from making inspections. The requester shall not be permitted to remove the records from the room where inspection is made. If, after making inspection, the requester desires copies of all or a portion of the requested records, copies shall be furnished upon payment of the established fees prescribed by § 1.7. Fees may be charged for search and review time as stated in § 1.7.

(4) *Denial of request.* If it is determined that the request for records should be denied in whole or in part, the requester shall be notified by mail. The letter of notification shall:

(i) State the exemptions relied on in not granting the request;

(ii) If technically feasible, indicate the amount of information deleted at the place in the record where such deletion is made (unless providing such indication would harm an interest protected by the exemption relied upon to deny such material);

(iii) Set forth the name and title or position of the responsible official;

(iv) Advise the requester of the right to administrative appeal in accordance with paragraph (i) of this section; and

(v) Specify the official or office to which such appeal shall be submitted.

(5) *No records found.* If it is determined, after a thorough search for records by the responsible official or his delegate, that no records have been found to exist, the responsible official will so notify the requester in writing. The letter of notification will advise the requester of the right to administratively appeal the Department's determination that no records exist (*i.e.*, to challenge the adequacy of the Department's search for responsive records) in accordance with paragraph (i) of this section. The response shall specify the official or office to which the appeal shall be submitted for review.

(i) *Administrative appeal.* (1)(i) A requester may appeal a Department of the Treasury initial determination when:

(A) Access to records has been denied in whole or in part;

(B) There has been an adverse determination of the requester's category as provided in § 1.7(d)(4);

(C) A request for fee waiver or reduction has been denied;

(D) It has been determined that no responsive records exist; or

(E) A request for expedited processing has been denied.

(ii) An appeal, other than an appeal for expedited processing, must be submitted within 35 days of the date of the initial determination or the date of the letter transmitting the last records released, whichever is later, except in the case of a denial for expedited processing. An appeal of a denial for expedited processing must be made within 10 days of the date of the initial determination to deny expedited processing (see § 1.5(e)(5)). All appeals must be submitted to the official specified in the

§ 1.5

appropriate appendix to this subpart whose title and address should also have been included in the initial determination. An appeal that is improperly addressed shall be considered not to have been received by the Department until the office specified in the appropriate appendix receives the appeal.

(2) The appeal shall—

(i) Be made in writing and signed by the requester or his or her representative;

(ii) Be addressed to and mailed or hand delivered within 35 days (or within 10 days when expedited processing has been denied) of the date of the initial determination, or the date of the letter transmitting the last records released, whichever is later, to the office or officer specified in the appropriate appendix to this subpart and also in the initial determination. (See the appendices to this subpart for the address to which appeals made by mail should be addressed);

(iii) Set forth the address where the requester desires to be notified of the determination on appeal;

(iv) Specify the date of the initial request and date of the letter of initial determination, and, where possible, enclose a copy of the initial request and the initial determination being appealed.

(3)(i) Appeals shall be stamped with the date of their receipt by the office to which addressed, and shall be processed in the approximate order of their receipt. The receipt of the appeal shall be acknowledged by the office or officer specified in the appropriate appendix to this subpart and the requester advised of the date the appeal was received and the expected date of response. The decision to affirm the initial determination (in whole or in part) or to grant the request for records shall be made and notification of the determination mailed within 20 days (exclusive of Saturdays, Sundays, and legal public holidays) after the date of receipt of the appeal, unless extended pursuant to paragraph (j)(1) of this section. If it is decided that the initial determination is to be upheld (in whole or in part) the requester shall be—

(A) Notified in writing of the denial;

31 CFR Subtitle A (7–1–00 Edition)

(B) Notified of the reasons for the denial, including the FOIA exemptions relied upon;

(C) Notified of the name and title or position of the official responsible for the determination on appeal; and

(D) Provided with a statement that judicial review of the denial is available in the United States District Court for the judicial district in which the requester resides or has a principal place of business, the judicial district in which the requested records are located, or the District of Columbia in accordance with 5 U.S.C. 552(a)(4)(B).

(ii) If the initial determination is reversed on appeal, the requester shall be so notified and the request shall be processed promptly in accordance with the decision on appeal.

(4) If a determination cannot be made within the 20-day period (or within a period of extension pursuant to paragraph (j)(1) of this section), the requester may be invited to agree to a voluntary extension of the 20-day appeal period. This voluntary extension shall not constitute a waiver of the right of the requester ultimately to commence an action in a United States district court.

(j) *Time extensions; unusual circumstances.* (1) In unusual circumstances, the time limitations specified in paragraphs (h) and (i) of this section may be extended by written notice from the official charged with the duty of making the determination to the person making the request or appeal setting forth the reasons for this extension and the date on which the determination is expected to be sent. As used in this paragraph, *unusual circumstances* means, but only to the extent reasonably necessary to the proper processing of the particular requests:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable

Office of the Secretary of the Treasury

§1.6

speed, with another agency having a substantial interest in the determination of the request, or among two or more bureaus or components of bureaus of the Department of the Treasury having substantial subject matter interest therein.

(2) Any extension or extensions of time shall not cumulatively total more than 10 days (exclusive of Saturdays, Sundays, and legal public holidays). However, if additional time is needed to process the request, the bureau shall notify the requester and provide the requester an opportunity to limit the scope of the request or arrange for an alternative time frame for processing the request or a modified request. The requester shall retain the right to define the desired scope of the request, as long as it meets the requirements contained in this subpart.

(3) Bureaus may establish multitrack processing of requests based on the amount of work or time, or both, involved in processing requests.

(4) If more than one request is received from the same requester, or from a group of requesters acting in concert, and the Department believes that such requests constitute a single request which would otherwise satisfy the unusual circumstances specified in paragraph (j)(1) of this section, and the requests involve clearly related matters, the Department may aggregate these requests for processing purposes.

(k) *Failure to comply.* If a bureau of the Department of the Treasury fails to comply with the time limits specified in paragraphs (h) or (i) of this section, or the time extensions of paragraph (j) of this section, any person making a request for records in accordance with §1.5 shall be considered to have exhausted administrative remedies with respect to the request. Accordingly, the person making the request may initiate suit as set forth in paragraph (l) of this section.

(l) *Judicial review.* If an adverse determination is made upon appeal pursuant to paragraph (i) of this section, or if no determination is made within the time limits specified in paragraphs (h) and (i) of this section, together with any extension pursuant to paragraph (j)(1) of this section or within the time otherwise agreed to by the requester, the

requester may commence an action in a United States district court in the district in which he resides, in which his principal place of business is located, in which the records are situated, or in the District of Columbia, pursuant to 5 U.S.C. 552(a)(4).

(m) *Preservation of records.* Under no circumstances shall records be destroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

(n) *Processing requests that are not properly addressed.* A request that is not properly addressed as specified in the appropriate appendix to this subpart shall be forwarded to the appropriate bureau or bureaus for processing. If the recipient of the request does not know the appropriate bureau to forward it to, the request shall be forwarded to the Departmental Disclosure Officer (Disclosure Services, DO), who will determine the appropriate bureau. A request not addressed to the appropriate bureau will be considered to have been received for purposes of paragraph (f) of this section when the request has been received by the appropriate bureau office as designated in the appropriate appendix to this subpart. An improperly addressed request, when received by the appropriate bureau office, shall be acknowledged by that bureau.

§1.6 Business information.

(a) *In general.* Business information provided to the Department of the Treasury by a business submitter shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section.

(b) *Notice to business submitters.* A bureau shall provide a business submitter with prompt written notice of receipt of a request or appeal encompassing its business information whenever required in accordance with paragraph (c) of this section, and except as is provided in paragraph (g) of this section. Such written notice shall either describe the exact nature of the business information requested or provide copies of the records or portions of records containing the business information.

(c) *When notice is required.* The bureau shall provide a business submitter with

§ 1.7

notice of receipt of a request or appeal whenever:

(1) The business submitter has in good faith designated the information as commercially or financially sensitive information, or

(2) The bureau has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm.

(3) Notice of a request for business information falling within paragraph (c)(1) or (2) of this section shall be required for a period of not more than ten years after the date of submission unless the business submitter requests, and provides acceptable justification for, a specific notice period of greater duration.

(4) The submitter's claim of confidentiality should be supported by a statement by an authorized representative of the company providing specific justification that the information in question is in fact confidential commercial or financial information and has not been disclosed to the public.

(d) *Opportunity to object to disclosure.*

(1) Through the notice described in paragraph (b) of this section, a bureau shall afford a business submitter ten days from the date of the notice (exclusive of Saturdays, Sundays, and legal public holidays) to provide the bureau with a detailed statement of any objection to disclosure. Such statement shall specify all grounds for withholding any of the information under any exemption of the Freedom of Information Act and, in the case of Exemption 4, shall demonstrate why the information is considered to be a trade secret or commercial or financial information that is privileged or confidential. Information provided by a business submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA.

(2) When notice is given to a submitter under this section, the requester shall be advised that such notice has been given to the submitter. The requester shall be further advised that a delay in responding to the request may be considered a denial of access to records and that the requester may proceed with an administrative appeal or seek judicial review, if appropriate. However, the requester will be

31 CFR Subtitle A (7-1-00 Edition)

invited to agree to a voluntary extension of time so that the bureau may review the business submitter's objection to disclose.

(e) *Notice of intent to disclose.* A bureau shall consider carefully a business submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose business information. Whenever a bureau decides to disclose business information over the objection of a business submitter, the bureau shall forward to the business submitter a written notice which shall include:

(1) A statement of the reasons for which the business submitter's disclosure objections were not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date which is not less than ten days (exclusive of Saturdays, Sundays, and legal public holidays) after the notice of the final decision to release the requested information has been mailed to the submitter. Except as otherwise prohibited by law, a copy of the disclosure notice shall be forwarded to the requester at the same time.

(f) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of business information covered by paragraph (c) of this section, the bureau shall promptly notify the business submitter.

(g) *Exception to notice requirement.* The notice requirements of this section shall not apply if:

(1) The bureau determines that the information shall not be disclosed;

(2) The information lawfully has been published or otherwise made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552).

§ 1.7 Fees for services.

(a) *In general.* This fee schedule is applicable uniformly throughout the Department of the Treasury and pertains to requests processed under the Freedom of Information Act. Specific levels of fees are prescribed for each of the following categories of requesters. Requesters are asked to identify the applicable fee category they belong to in

Office of the Secretary of the Treasury

§ 1.7

their initial request in accordance with § 1.5(b).

(1) *Commercial use requesters.* These requesters are assessed charges which recover the full direct costs of searching for, reviewing, and duplicating the records sought. Commercial use requesters are not entitled to two hours of free search time or 100 free pages of duplication of documents. Moreover, when a request is received for disclosure that is primarily in the commercial interest of the requester, the Department is not required to consider a request for a waiver or reduction of fees based upon the assertion that disclosure would be in the public interest. The Department may recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records, or no records are located.

(2) *Educational and Non-Commercial Scientific Institution Requesters.* Records shall be provided to requesters in these categories for the cost of duplication alone, excluding charges for the first 100 pages. To be eligible, requesters must show that the request is made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research. These categories do not include requesters who want records for use in meeting individual academic research or study requirements.

(3) *Requesters who are Representatives of the News Media.* Records shall be provided to requesters in this category for the cost of duplication alone, excluding charges for the first 100 pages.

(4) *All Other Requesters.* Requesters who do not fit any of the categories described above shall be charged fees that will recover the full direct cost of searching for and duplicating records that are responsive to the request, except that the first 100 pages of duplication and the first two hours of search time shall be furnished without charge. The Department may recover the cost of searching for records even if there is ultimately no disclosure of records, or no records are located. Requests from

persons for records about themselves filed in the Department's systems of records shall continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for duplication, after the first 100 pages are furnished free of charge.

(b) *Fee waiver determination.* Where the initial request includes a request for reduction or waiver of fees, the responsible official shall determine whether to grant the request for reduction or waiver before processing the request and notify the requester of this decision. If the decision does not waive all fees, the responsible official shall advise the requester of the fact that fees shall be assessed and, if applicable, payment must be made in advance pursuant to § 1.7(e)(2).

(c) *When fees are not charged.* (1) No fee shall be charged for monitoring a requester's inspection of records.

(2) Fees shall be charged in accordance with the schedule contained in paragraph (g) of this section for services rendered in responding to requests for records, unless any one of the following applies:

(i) Services were performed without charge;

(ii) The cost of collecting a fee would be equal to or greater than the fee itself; or,

(iii) The fees were waived or reduced in accordance with paragraph (d) of this section.

(d) *Waiver or reduction of fees.* (1) Fees may be waived or reduced on a case-by-case basis in accordance with this paragraph by the official who determines the availability of the records, provided such waiver or reduction has been requested in writing. Fees shall be waived or reduced by this official when it is determined, based upon the submission of the requester, that a waiver or reduction of the fees is in the public interest because furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Fee waiver/reduction requests shall be evaluated against the fee waiver policy guidance issued by the Department of Justice on April 2, 1987.

§ 1.7

(2) Normally no charge shall be made for providing records to state or foreign governments, international governmental organizations, or local government agencies or offices.

(3) Appeals from denials of requests for waiver or reduction of fees shall be decided in accordance with the criteria set forth in paragraph (d)(1) of this section by the official authorized to decide appeals from denials of access to records. Appeals shall be addressed in writing to the office or officer specified in the appropriate appendix to this subpart within 35 days of the denial of the initial request for waiver or reduction and shall be decided within 20 days (excluding Saturdays, Sundays, and legal public holidays).

(4) Appeals from an adverse determination of the requester's category as described in § 1.5(b)(2) and provided in § 1.5(i)(1) shall be decided by the official authorized to decide appeals from denials of access to records and shall be based upon a review of the requester's submission and the bureau's own records. Appeals shall be addressed in writing to the office or officer specified in the appropriate appendix to this subpart within 35 days of the date of the bureau's determination of the requester's category and shall be decided within 20 days (excluding Saturdays, Sundays, and legal public holidays).

(e) *Advance notice of fees.* (1) When the fees for processing the request are estimated to exceed the limit set by the requester, and that amount is less than \$250, the requester shall be notified of the estimated costs. The requester must provide an agreement to pay the estimated costs; however, the requester shall also be given an opportunity to reformulate the request in an attempt to reduce fees.

(2) If the requester has failed to state a limit and the costs are estimated to exceed \$250.00, the requester shall be notified of the estimated costs and must pre-pay such amount prior to the processing of the request, or provide satisfactory assurance of full payment if the requester has a history of prompt payment of FOIA fees. The requester shall also be given an opportunity to reformulate the request in such a way as to constitute a request for responsive records at a reduced fee.

31 CFR Subtitle A (7-1-00 Edition)

(3) When the Department or a bureau of the Department acts under paragraphs (e)(1) or (2) of this section, the administrative time limits of 20 days (excluding Saturdays, Sundays, and legal public holidays) from receipt of initial requests or appeals, plus extensions of these time limits, shall begin only after fees have been paid, a written agreement to pay fees has been provided, or a request has been reformulated.

(f) *Form of payment.* (1) Payment may be made by check or money order payable to the Treasury of the United States or the relevant bureau of the Department of the Treasury.

(2) The Department of the Treasury reserves the right to request prepayment after a request is processed and before documents are released.

(3) When costs are estimated or determined to exceed \$250, the Department shall either obtain satisfactory assurance of full payment of the estimated cost where the requester has a history of prompt payment of FOIA fees or require a requester to make an advance payment of the entire estimated or determined fee before continuing to process the request.

(4) If a requester has previously failed to pay a fee within 30 days of the date of the billing, the requester shall be required to pay the full amount owed plus any applicable interest, and to make an advance payment of the full amount of the estimated fee before the Department begins to process a new request or the pending request. Whenever interest is charged, the Department shall begin assessing interest on the 31st day following the day on which billing was sent. Interest shall be at the rate prescribed in 31 U.S.C. 3717. In addition, the Department shall take all steps authorized by the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, including administrative offset pursuant to 31 CFR Part 5, disclosure to consumer reporting agencies and use of collection agencies, to effect payment.

(g) *Amounts to be charged for specific services.* The fees for services performed by a bureau of the Department of the Treasury shall be imposed and collected as set forth in this paragraph.

Office of the Secretary of the Treasury

Pt. 1, Subpt. A, App. A

(1) *Duplicating records.* All requesters, except commercial requesters, shall receive the first 100 pages duplicated without charge. Absent a determination to waive fees, a bureau shall charge requesters as follows:

(i) \$.20 per page, up to $8\frac{1}{2} \times 14$ ", made by photocopy or similar process.

(ii) Photographs, films, and other materials—actual cost of duplication.

(iii) Other types of duplication services not mentioned above—actual cost.

(iv) Material provided to a private contractor for copying shall be charged to the requester at the actual cost charged by the private contractor.

(2) *Search services.* Bureaus shall charge for search services consistent with the following:

(i) *Searches for other than electronic records.* The Department shall charge for search time at the salary rate(s) (basic pay plus 16 percent) of the employee(s) making the search. However, where a single class of personnel is used exclusively (e.g., all administrative/clerical, or all professional/executive), an average rate for the range of grades typically involved may be established. This charge shall include transportation of personnel and records necessary to the search at actual cost. Fees may be charged for search time as prescribed in §1.7, even if the search does not yield any responsive records, or if records are denied.

(ii) *Searches for electronic records.* The Department shall charge for actual direct cost of the search, including computer search time, runs, and the operator's salary. The fee for computer output shall be actual direct costs. For requesters in the "all other" category, when the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search (i.e., the operator), the charge for the computer search will begin.

(3) *Review of records.* The Department shall charge commercial use requesters for review of records at the salary rate(s) (i.e., basic pay plus 16 percent) of the employee(s) making the review. However, when a single class of personnel is used exclusively (e.g., all administrative/clerical, or all profes-

sional/executive), an average rate for the range of grades typically involved may be established. Fees may be charged for review time as prescribed in §1.7, even if records ultimately are not disclosed.

(4) *Inspection of records.* Fees for all services provided shall be charged whether or not copies are made available to the requester for inspection.

(5) *Other services.* Other services and materials requested which are not covered by this part nor required by the FOIA are chargeable at the actual cost to the Department. This includes, but is not limited to:

(i) Certifying that records are true copies;

(ii) Sending records by special methods such as express mail, etc.

(h) *Aggregating requests.* When the Department or a bureau of the Department reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the agency shall aggregate any such requests and charge accordingly.

APPENDICES TO SUBPART A

APPENDIX A—DEPARTMENTAL OFFICES

1. *In general.* This appendix applies to the Departmental Offices as defined in 31 CFR 1.1(a)(1).

2. *Public reading room.* The public reading room for the Departmental Offices is the Treasury Library. The Library is located in the Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. For building security purposes, visitors are required to make an appointment by calling 202-622-0990.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records of the Departmental Offices will be made by the head of the organizational unit having immediate custody of the records requested or the delegate of such official. Requests for records should be addressed to: Freedom of Information Request, DO, Assistant Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

4. *Administrative appeal of initial determination to deny records.*

(i) Appellate determinations under 31 CFR 1.5(i) with respect to records of the Departmental Offices will be made by the Secretary, Deputy Secretary, Under Secretary,

Pt. 1, Subpt. A, App. B

General Counsel, Inspector General, Treasury Inspector General for Tax Administration, Treasurer of the United States, or Assistant Secretary having jurisdiction over the organizational unit which has immediate custody of the records requested, or the delegate of such officer.

(ii) Appellate determinations with respect to requests for expedited processing shall be made by the Deputy Assistant Secretary (Administration).

(iii) Appeals should be addressed to:

Freedom of Information Appeal, DO, Assistant Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

5. *Delivery of process.* Service of process will be received by the General Counsel of the Department of the Treasury or the delegate of such officer and shall be delivered to the following location: General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

APPENDIX B—INTERNAL REVENUE SERVICE

1. *In general.* This appendix applies to the Internal Revenue Service. See also 26 CFR 601.702.

2. *Public reading room.* The public reading rooms for the Internal Revenue Service are maintained at the following location:

NATIONAL OFFICE

Mailing Address

Freedom of Information Reading Room, PO Box 795, Ben Franklin Station, Washington, DC 20044

Walk-In Address

Room 1621, 1111 Constitution Avenue, NW., Washington, DC

NORTHEAST REGION

Mailing Address

Freedom of Information Reading Room, PO Box 5138, E:QMS:D, New York, NY 10163

Walk-In Address

11th Floor, 110 W. 44th Street, New York, NY

MIDSTATES REGION

Mailing Address

Freedom of Information Reading Room, Mail Code 7000 DAL, 1100 Commerce Street, Dallas, TX 75242

Walk-In Address

10th Floor, Rm. 10B37, 1100 Commerce Street, Dallas, TX

31 CFR Subtitle A (7–1–00 Edition)

SOUTHEAST REGION

Mailing Address

401 W. Peachtree Street, NW., Stop 601D, Room 868, Atlanta, GA 30365

Walk-In Address

Same as mailing address

WESTERN REGION

Mailing Address

1301 Clay Street, Stop 800-S, Oakland, CA 94612

Walk-In Address

8th Floor, 1301 Clay Street, Oakland, CA

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records of the Internal Revenue Service, grant expedited processing, grant a fee waiver, or determine requester category will be made by those officials specified in 26 CFR 601.702.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(i) with respect to records of the Internal Revenue Service will be made by the Commissioner of Internal Revenue or the delegate of such officer. Appeals made by mail should be addressed to: Freedom of Information Appeal, Commissioner of Internal Revenue Service, c/o Ben Franklin Station, PO Box 929, Washington, DC 20044.

Appeals may be delivered personally to the Assistant Chief Counsel (Disclosure Litigation) CC:EL:D, Office of the Chief Counsel, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C.

5. *Delivery of process.* Service of process shall be effected consistent with Rule 4 of the Federal Rule of Civil Procedure, and directed to the Commissioner of Internal Revenue at the following address: Commissioner, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. Attention: CC:EL:D.

APPENDIX C—UNITED STATES CUSTOMS SERVICE

1. *In general.* This appendix applies to the United States Customs Service.

2. *Public reading room.* The public reading room for the United States Customs Service is maintained at the following location: United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229.

3. *Requests for records.*

(a) Headquarters—Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records will be made by the appropriate Division Director at Customs Service Headquarters having custody of or functional jurisdiction over the subject matter of the requested records. If the request relates

Office of the Secretary of the Treasury

to records maintained in an office which is not within a division, the initial determination shall be made by the individual designated for that purpose by the Assistant Commissioner having responsibility for that office. Requests may be mailed or delivered in person to: Freedom of Information Act, Chief, Disclosure Law Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

(b) Field Offices—Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records maintained by the Office of Investigations will be made by the Special Agent in Charge in whose office the records are maintained. Initial determinations of records maintained in Customs Ports of Entry as to whether or not to grant requests for records will be made by the Port Director of the Customs Service Port having jurisdiction over the Port of Entry in which the records are maintained. Requests may be mailed or faxed to or delivered personally to the respective Special Agents in Charge or Port Directors of the Customs Service Ports at the following locations:

OFFICES OF SPECIAL AGENTS IN CHARGE (SACS)

Atlanta—SAC

1691 Phoenix Blvd., Suite 250, Atlanta, Georgia 30349, Phone (770) 994-2230, FAX (770) 994-2262

Detroit—SAC

McNamara Federal Building, 477 Michigan Avenue, Room 350, Detroit, Michigan 48226-2568, Phone (313) 226-3166, FAX (313) 226-6282

Baltimore—SAC

40 South Gay Street, 3rd Floor Baltimore, Maryland 21202, Phone (410) 962-2620, FAX (410) 962-3469

El Paso—SAC

9400 Viscount Blvd., Suite 200, El Paso, Texas 79925, Phone (915) 540-5700, FAX (915) 540-5754

Boston—SAC

10 Causeway Street, Room 722, Boston, MA 02222-1054, Phone (617) 565-7400, FAX (617) 565-7422

Houston—SAC

4141 N. Sam Houston Pkwy, E., Houston, Texas 77032, Phone (281) 985-0500, FAX (281) 985-0505

Buffalo—SAC

111 West Huron Street, Room 416, Buffalo, New York 14202, Phone (716) 551-4375, FAX (716) 551-4379

Pt. 1, Subpt. A, App. C

Los Angeles—SAC

300 South Ferry St., Room 2037, Terminal Island, CA 90731, Phone (310) 514-6231, FAX (310) 514-6280

Chicago—SAC

610 South Canal Street, Room 1001, Chicago, Illinois 60607, Phone (312) 353-8450, FAX (312) 353-8455

Miami—SAC

8075 NW 53rd Street, Scranton Building, Miami, Florida 33166, Phone (305) 597-6030, FAX (305) 597-6227

Denver—SAC

115 Inverness Drive, East, Suite 300, Englewood, CO 80112-5131, Phone (303) 784-6480, FAX (303) 784-6490

New Orleans—SAC

423 Canal Street, Room 207, New Orleans, LA 70130, Phone (504) 670-2416, FAX (504) 589-2059

New York—SAC

6 World Trade Center, New York, New York 10048-0945, Phone (212) 466-2900, FAX (212) 466-2903

San Juan—SAC

#1, La Puntilla Street, Room 110, San Juan, PR 00901, Phone (787) 729-6975 FAX (787) 729-6646

San Antonio—SAC

10127 Morocco, Suite 180, San Antonio, Texas 78216, Phone (210) 229-4561, FAX (210) 229-4582

Seattle—SAC

1000—2nd Avenue, Suite 2300, Seattle, Washington, 98104, Phone (206) 553-7531, FAX (206) 553-0826

San Diego—SAC

185 West "F" Street, Suite 600, San Diego, CA 92101, Phone (619) 557-6850, FAX (619) 557-5109

Tampa—SAC

2203 North Lois Avenue, Suite 600, Tampa, Florida 33607, Phone (813) 348-1881, FAX (813) 348-1871

San Francisco—SAC

1700 Montgomery Street, Suite 445, San Francisco, CA 94111, Phone (415) 705-4070, FAX (415) 705-4065

Tucson—SAC

555 East River Road, Tucson, Arizona 85704, Phone (520) 670-6026, FAX (520) 670-6233

Pt. 1, Subpt. A, App. C

CUSTOMS SERVICE PORTS

Anchorage: 605 West Fourth Avenue Anchorage, AK 99501. Phone: (907) 271-2675; FAX: (907) 271-2684.

Minneapolis: 110 South Street Minneapolis, MN 55401. Phone: (612) 348-1690; FAX: (612) 348-1630.

Baltimore: 200 St. Paul Place Baltimore, MD 21202. Phone: (410) 962-2666; FAX: (410) 962-9335.

Mobile: 150 North Royal Street Mobile, AL 36602. Phone: (205) 441-5106; FAX: (205) 441-6061.

Blaine: 9901 Pacific Highway Blaine, WA 98230. Phone: (360) 332-5771; FAX: (360) 332-4701.

New Orleans: 423 Canal Street New Orleans, LA 70130. Phone: (504) 589-6353; FAX: (504) 589-7305.

Boston: 10 Causeway Street Boston, MA 02222-1059. Phone: (617) 565-6147; FAX: (617) 565-6137.

New York: 6 World Trade Center New York, NY 10048. Phone: (212) 466-4444; FAX: (212) 455-2097.

Buffalo: 111 West Huron Street Buffalo, NY 14202-22378. Phone: (716) 551-4373; FAX: (716) 551-5011.

New York-JFK Area: Building #77 Jamaica, NY 11430. Phone: (718) 553-1542; FAX: (718) 553-0077.

Champlain: 35 West Service Road Rts. 1 & 9 South Champlain, NY 12919. Phone: (518) 298-8347; FAX: (518) 298-8314.

New York-NY/Newark Area: Hemisphere Center, Newark, NJ 07114. Phone: (201) 645-3760; FAX: (201) 645-6634.

Charleston: 200 East Bay Street Charleston, SC 29401. Phone: (803) 727-4296; FAX: (803) 727-4043.

Nogales: 9 North Grand Avenue Nogales, AZ 85621. Phone: (520) 287-1410; FAX: (520) 287-1421.

Charlotte: 1801-K Cross Beam Drive Charlotte, NC 28217. Phone: (704) 329-6101; FAX: (704) 329-6103.

Norfolk: 200 Granby Street Norfolk, VA 23510. Phone: (804) 441-3400; FAX: (804) 441-6630.

Charlotte/Amalie: Main Post OFC-Sugar Estate St. Thomas, VI 00801. Phone: (809) 774-2511; FAX: (809) 776-3489.

Pembina: PO Box 610 Pembina, ND 58271. Phone: (701) 825-6201; FAX: (701) 825-6473.

Chicago: 610 South Canal Street Chicago, IL 60607. Phone: (312) 353-6100; FAX: (312) 353-2337.

Philadelphia: 2nd & Chestnut Streets Philadelphia, PA 19106. Phone: (215) 597-4605; FAX: (215) 597-2103.

Cleveland: 56 Erieview Plaza Cleveland, OH 44114. Phone: (216) 891-3804; FAX: (216) 891-3836.

Portland, Oregon: 511 NW Broadway Portland, OR 97209. Phone: (503) 326-2865; FAX: (503) 326-3511.

31 CFR Subtitle A (7-1-00 Edition)

Dallas/Fort Worth: PO Box 61905 Dallas/Fort Worth Airport, TX 75261. Phone: (972) 574-2170; FAX: (972) 574-4818.

Providence: 49 Pavilion Avenue Providence, RI 02905. Phone: (401) 941-6326; FAX: (401) 941-6628.

Denver: 4735 Oakland Street Denver, CO 80239. Phone: (303) 361-0715; FAX: (303) 361-0722.

San Diego: 610 West Ash Street San Diego, CA 92188. Phone: (619) 557-6758; FAX: (619) 557-5314.

Detroit: 477 Michigan Avenue Detroit, MI 48226. Phone: (313) 226-3178; FAX: (313) 226-3179.

San Francisco: 555 Battery Avenue San Francisco, CA 94111. Phone: (415) 744-7700; FAX: (415) 744-7710.

Duluth: 515 West 1st Street Duluth, MN 55802-1390. Phone: (218) 720-5201; FAX: (218) 720-5216.

San Juan: #1 La Puntilla San Juan, PR 00901. Phone: (809) 729-6965; FAX: (809) 729-6978.

El Paso: 9400 Viscount Boulevard El Paso, TX 79925. Phone: (915) 540-5800; FAX: (915) 540-3011.

Savannah: 1 East Bay Street Savannah, GA 31401. Phone: (912) 652-4256; FAX: (912) 652-4435.

Great Falls: 300 2nd Avenue South Great Falls, MT 59403. Phone: (406) 453-7631; FAX: (406) 453-7069.

Seattle: 1000 2nd Avenue Seattle, WA 98104-1049. Phone: (206) 553-0770; FAX: (206) 553-2970.

Honolulu: 335 Merchant Street Honolulu, HI 96813. Phone: (808) 522-8060; FAX: (808) 522-8060.

St. Albans: P.O. Box 1490 St. Albans, VT 05478. Phone: (802) 524-7352; FAX: (802) 527-1338.

Houston/Galveston: 1717 East Loop Houston, TX 77029. Phone: (713) 985-6712; FAX: (713) 985-6705.

St. Louis: 4477 Woodson Road St. Louis, MO 63134-3716. Phone: (314) 428-2662; FAX: (314) 428-2889.

Laredo/Colombia: P.O. Box 3130 Laredo, TX 78044. Phone: (210) 726-2267; FAX: (210) 726-2948.

Tacoma: 2202 Port of Tacoma Road, Tacoma, WA 98421. Phone: (206) 593-6336; FAX: (206) 593-6351.

Los Angeles: 300 South Ferry Street Terminal Island, CA 90731. Phone: (310) 514-6001; FAX: (310) 514-6769.

Tampa: 4430 East Adamo Drive Tampa, FL 33605. Phone: (813) 228-2381; FAX: (813) 225-7309.

Miami Airport: 6601 West 25th Street Miami, FL 33102-5280. Phone: (305) 869-2800; FAX: (305) 869-2822.

Washington, DC: P.O. Box 17423 Washington, DC 20041. Phone: (703) 318-5900; FAX: (703) 318-6706.

Office of the Secretary of the Treasury

Pt. 1, Subpt. A, App. F

Milwaukee: P.O. Box 37260 Milwaukee, WI 53237-0260. Phone: (414) 571-2860; FAX: (414) 762-0253.

(c) All such requests should be conspicuously labeled on the face of the envelope, "Freedom of Information Act Request" or "FOIA Request".

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(i) will be made by the Assistant Commissioner of Customs (Office of Regulations and Rulings), or his designee, and all such appeals should be mailed, faxed (202/927-1873) or personally delivered to the United States Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. If possible, a copy of the initial letter of determination should be attached to the appeal.

5. *Delivery of process.* Service of process will be received by the Chief Counsel, United States Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

APPENDIX D—UNITED STATES SECRET SERVICE

1. *In general.* This appendix applies to the United States Secret Service.

2. *Public reading room.* The United States Secret Service will provide a room on an ad hoc basis when necessary. Contact the Disclosure Officer, Room 720, 1800 G Street, NW., Washington, DC 20223 to make appointments.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records of the United States Secret Service will be made by the Freedom of Information and Privacy Acts Officer, United States Secret Service. Requests may be mailed or delivered in person to: Freedom of Information Act Request, FOIA and Privacy Acts Officer, U.S. Secret Service, Room 720, 1800 G Street, NW., Washington, DC 20223.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(i) with respect to records of the United States Secret Service will be made by the Deputy Director, United States Secret Service. Appeals should be addressed to: Freedom of Information Appeal, Deputy Director, U.S. Secret Service, Room 800, 1800 G Street, NW., Washington, DC 20223.

5. *Delivery of Process.* Service of process will be received by the United States Secret Service Chief Counsel at the following address: Chief Counsel, U.S. Secret Service, Room 842, 1800 G Street, NW., Washington, DC 20223.

APPENDIX E—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

1. *In general.* This appendix applies to the Bureau of Alcohol, Tobacco and Firearms.

2. *Public reading room.* The Bureau of Alcohol, Tobacco and Firearms will make materials available for review on an ad hoc basis when necessary. Contact the Chief, Disclosure Division, Bureau of Alcohol, Tobacco, and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records of the Bureau of Alcohol, Tobacco, and Firearms will be made by the Chief, Disclosure Division, Office of Assistant Director (Liaison and Public Information) or the delegate of such officer. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Chief, Disclosure Division, Bureau of Alcohol, Tobacco, and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(i) with respect to records of the Bureau of Alcohol, Tobacco and Firearms will be made by the Assistant Director, Liaison and Public Information, Bureau of Alcohol, Tobacco, and Firearms or the delegate of such officer.

Appeals may be mailed or delivered in person to: Freedom of Information Appeal, Assistant Director, Liaison and Public Information, Bureau of Alcohol, Tobacco, and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

5. *Delivery of process.* Service of process will be received by the Director of the Bureau of Alcohol, Tobacco, and Firearms at the following location: Bureau of Alcohol, Tobacco, and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, Attention: Chief Counsel.

APPENDIX F—BUREAU OF ENGRAVING AND PRINTING

1. *In general.* This appendix applies to the Bureau of Engraving and Printing.

2. *Public reading room.* Contact the Disclosure Officer, 14th and C Streets, SW., Washington, DC 20228, to make an appointment.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records of the Bureau of Engraving and Printing will be made by the Assistant to the Director. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Disclosure Officer, (Assistant to the Director), Room 112-M, Bureau of Engraving and Printing, Washington, DC 20228.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(i) with respect to records of the Bureau of Engraving and Printing will be made by the Director of the Bureau of Engraving and Printing or the delegate of the Director. Appeals may be mailed

Pt. 1, Subpt. A, App. G

or delivered in person to: Freedom of Information Appeal, Director, Bureau of Engraving and Printing, 14th and C Streets, SW., Room 119-M, Washington, DC 20228.

5. *Delivery of process.* Service of process will be received by the Chief Counsel or the delegate of such officer at the following location: Chief Counsel, Bureau of Engraving and Printing, 14th and C Streets, SW., Room 104-24 M, Washington, DC 20228.

APPENDIX G—FINANCIAL MANAGEMENT SERVICE

1. *In general.* This appendix applies to the Financial Management Service.

2. *Public reading room.* The public reading room for the Financial Management Service is maintained at the following location: Library, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220. For building security purposes, visitors are required to make an appointment by calling 202/622-0990.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) whether to grant requests for records will be made by the Disclosure Officer, Financial Management Service. Requests may be mailed or delivered in person to: Freedom of Information Request, Disclosure Officer, Financial Management Service, 401 14th Street, SW., Washington, DC 20227.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(i) will be made by the Commissioner, Financial Management Service. Appeals may be mailed to: Freedom of Information Appeal (FOIA), Commissioner, Financial Management Service, 401 14th Street, SW., Washington, DC 20227.

Appeals may be delivered personally to the Office of the Commissioner, Financial Management Service, 401 14th Street, SW., Washington, DC.

5. *Delivery of process.* Service of process will be received by the Commissioner, Financial Management Service, and shall be delivered to: Commissioner, Financial Management Service, Department of the Treasury, 401 14th Street, SW., Washington, DC 20227.

APPENDIX H—UNITED STATES MINT

1. *In general.* This appendix applies to the United States Mint.

2. *Public reading room.* The U.S. Mint will provide a room on an ad hoc basis when necessary. Contact the Freedom of Information/Privacy Act Officer, United States Mint, Judiciary Square Building, 7th floor, 633 3rd Street, NW., Washington, DC 20220.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records of the United States Mint will be made by the Freedom of Information/Privacy Act Officer, United

31 CFR Subtitle A (7-1-00 Edition)

States Mint. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Freedom of Information/Privacy Act Officer, United States Mint, Judiciary Square Building, 7th Floor, 633 3rd Street, NW., Washington, DC 20220.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(i) with respect to records of the United States Mint will be made by the Director of the Mint. Appeals made by mail should be addressed to: Freedom of Information Appeal, Director, United States Mint, Judiciary Square Building, 7th Floor, 633 3rd Street, NW., Washington, DC 20220.

5. *Delivery of process.* Service of process will be received by the Director of the Mint and shall be delivered to: Chief Counsel, United States Mint, Judiciary Square Building, 7th Floor, 633 3rd Street, NW., Washington, D.C. 20220.

APPENDIX I—BUREAU OF THE PUBLIC DEBT

1. *In general.* This appendix applies to the Bureau of the Public Debt.

2. *Public reading room.* The public reading room for the Bureau of the Public Debt is maintained at the following location: Library, Main Treasury Building, 1500 Pennsylvania Avenue, NW, Washington, DC 20220. For building security purposes, visitors are required to make an appointment by calling 202/622-0990.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records will be made by the Disclosure Officer of the Bureau of the Public Debt. Requests may be sent to: Freedom of Information Act Request, Disclosure Officer, Bureau of the Public Debt, Department of the Treasury, 999 E Street, NW., Room 500, Washington, D.C. 20239-0001.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(i) with respect to records of the Bureau of the Public Debt will be made by the Commissioner of the Public Debt. Appeals may be sent to: Freedom of Information Appeal, Commissioner of the Public Debt, Department of the Treasury, 999 E Street, NW., Room 500, Washington, DC 20239-0001.

5. *Delivery of process.* Service of process will be received by the Chief Counsel, Bureau of the Public Debt, or the delegate of such officer, and shall be delivered to the following location: Chief Counsel's Office, Bureau of the Public Debt, Room 501, 999 E Street, NW., Washington, DC 20239-0001, or Bureau of the Public Debt, 200 Third Street, Room G-15, Parkersburg, WV 26106-1328.

Office of the Secretary of the Treasury

Pt. 1, Subpt. A, App. L

APPENDIX J—OFFICE OF THE COMPTROLLER OF THE CURRENCY

1. *In general.* This appendix applies to the Office of the Comptroller of the Currency.

2. *Public reading room.* The Office of the Comptroller of the Currency will make materials available through its Public Information Room at 250 E Street, SW., Washington, DC 20219.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records of the Office of the Comptroller of the Currency will be made by the Disclosure Officer or the official so designated. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Disclosure Officer, Communications Division, 3rd Floor, Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(i) with respect to records of the Office of the Comptroller of the Currency will be made by the Chief Counsel or delegates of such person. Appeals made by mail should be addressed to: Communications Division, Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Appeals may be delivered personally to the Communications Division, Comptroller of the Currency, 250 E Street, SW., Washington, DC.

5. *Delivery of process.* Service of process will be received by the Director, Litigation Division, Comptroller of the Currency, and shall be delivered to such officer at the following location: Litigation Division, Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

APPENDIX K—FEDERAL LAW ENFORCEMENT TRAINING CENTER

1. *In general.* This appendix applies to the Federal Law Enforcement Training Center.

2. *Public reading room.* The public reading room for the Federal Law Enforcement Training Center is maintained at the following location: Library, Building 262, Federal Law Enforcement Training Center, Glynco, GA 31524.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records will be made by the Chief, Management Analysis Division, Federal Law Enforcement Training Center. Requests made by mail should be addressed to: Freedom of Information Act Request, Freedom of Information Act Officer, Federal Law Enforcement Training Center, Department of the Treasury, Building 94, Glynco, GA 31524.

Requests may be delivered personally to the Management Analysis Division, Federal

Law Enforcement Training Center, Building 94, Glynco, GA.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(i) with respect to records of the consolidated Federal Law Enforcement Training Center will be made by the Director, Federal Law Enforcement Training Center. Appeals may be mailed to: Freedom of Information Appeal, Federal Law Enforcement Training Center, Department of the Treasury, Building 94, Glynco, GA 31524.

5. *Delivery of process.* Service of process will be received by the Legal Counsel of the Federal Law Enforcement Training Center, or his delegate, and shall be delivered to such officer at the following location: Legal Counsel, Federal Law Enforcement Training Center, Department of the Treasury, Building 94, Glynco, GA 31524.

APPENDIX L—OFFICE OF THRIFT SUPERVISION

1. *In general.* This appendix applies to the Office of Thrift Supervision (OTS). OTS regulatory handbooks and other publications are available for sale. Information may be obtained by calling the OTS Order Department at 301/645-6264. OTS regulatory handbooks and other publications may be purchased by forwarding a request, along with a check to: OTS Order Department, PO Box 753, Waldorf, MD 20604 or by calling 301/645-6264 to pay by VISA or MASTERCARD.

2. *Public reading room.* The public reading room for the Office of Thrift Supervision is maintained at the following location: 1700 G Street, NW., Washington, DC 20552.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records of the Office of Thrift Supervision will be made by the Director, OTS Dissemination Branch. Requests for records should be addressed to: Freedom of Information Request, Manager, Dissemination Branch, Records Management & Information Policy Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Requests for records may be delivered in person to: Public Reference Room, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(i) with respect to records of the Office of Thrift Supervision will be made by the Director, Records Management & Information Policy, Office of Thrift Supervision, or their designee. Appeals made by mail should be addressed to: Freedom of Information Appeal, Director, Records Management & Information Policy Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

§ 1.8

Appeals may be delivered in person to: Public Reference Room, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC.

5. *Delivery of process.* Service of process will be received by the Corporate Secretary of the Office of Thrift Supervision or their designee and shall be delivered to the following location: Corporate Secretary, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Subpart B—Other Disclosure Provisions

§ 1.8 Scope.

The regulations in this subpart concern access to information and records other than under 5 U.S.C. 552. This subpart is applicable only to the Departmental Offices as defined in § 1.1(a) of this part and the United States Savings Bonds Division and the United States Secret Service.

§ 1.9 Records not to be otherwise withdrawn or disclosed.

Except in accordance with this part, or as otherwise authorized, Treasury Department officers and employees are prohibited from making records or duplicates available to any person, not an officer or employee of the Department, and are prohibited from withdrawing any such records or duplicates from the files, possession or control of the Department.

§ 1.10 Oral information.

(a) Officers and employees of the Department may, in response to requests, provide orally information contained in records of the Department which are determined to be available to the public. If the obtaining of such information requires search of the records, a written request and the payment of the fee for record search set forth in § 1.6 will be required.

(b) Information with respect to activities of the Department not a matter of record shall not be disclosed if the information involves matters exempt from disclosure under 5 U.S.C. 552 or the regulations in this part, or if the disclosure of such information would give the person requesting the information advantages not accorded to other citizens;

31 CFR Subtitle A (7–1–00 Edition)

§ 1.11 Testimony or the production of records in a court or other proceeding.

(a) Treasury Department officers and employees are prohibited from testifying or otherwise furnishing information obtained as a result of their official capacities or in connection with the transaction of public business, in compliance with a subpoena or other order or demand of any court or other authority without the prior approval of an officer authorized to determine the availability of records under these regulations.

(b) Treasury Department officers and employees are prohibited from furnishing any record in compliance with subpoenas duces tecum or other order or demand of any court or other authority, without the prior approval of an officer authorized to determine the availability of records under the regulations in this part.

(c) In court cases in which the United States or the Treasury Department is not a party, where the giving of testimony is desired, an affidavit by the litigant or the litigant's attorney, setting forth the information with respect to which the testimony of such officer or employee is desired, must be submitted before permission to testify will be granted. Permission to testify will, in all cases, be limited to the information set forth in the affidavit or to such portions thereof as may be deemed proper.

(d) Where approval to testify or to furnish records in compliance with a subpoena, order or demand is not given the person to whom it is directed shall, if possible, appear in court or before the other authority and respectfully state his inability to comply in full with the subpoena, order or demand, relying for his action upon this section.

§ 1.12 Regulations not applicable to official request.

The regulations in this part shall not be applicable to official requests of other governmental agencies or officers thereof acting in their official capacities, unless it appears that granting a particular request would be in violation of law or inimical to the public interest. Cases of doubt should be

Office of the Secretary of the Treasury

§ 1.20

referred for decision to the supervisory official designated in § 1.8.

Subpart C—Privacy Act

§ 1.20 Purpose and scope of regulations.

The regulations in this subpart are issued to implement the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). The regulations apply to all records which are contained in systems of records maintained by the Department of the Treasury and which are retrieved by an individual's name or personal identifier. They do not relate to those personnel records of Government employees, which are under the jurisdiction of the Office of Personnel Management to the extent such records are subject to regulations issued by such OPM. The regulations apply to all components of the Department of the Treasury. Any reference in this subpart to the Department or its officials, employees, or records shall be deemed to refer also to the components or their officials, employees, or records. The regulations set forth the requirements applicable to Department of the Treasury employees maintaining, collecting, using or disseminating records pertaining to individuals. They also set forth the procedures by which individuals may request notification of whether the Department of the Treasury maintains or has disclosed a record pertaining to them or may seek access to such records maintained in any non-exempt system of records, request correction of such records, appeal any initial adverse determination of any request for amendment, or may seek an accounting of disclosures of such records. For the convenience of interested persons, the components of the Department of the Treasury may reprint these regulations in their entirety (less any appendices not applicable to the component in question) in those titles of the Code of Federal Regulations which normally contain regulations applicable to such components. In connection with such republication, and at other appropriate times, components may issue supplementary regulations applicable only to the component in question, which are consistent with these regulations. In the event of any

actual or apparent inconsistency, these Departmental regulations shall govern. Persons interested in the records of a particular component should, therefore, also consult the *Code of Federal Regulations* for any rules or regulations promulgated specifically with respect to that component (see Appendices to this subpart for cross references). The head of each component is hereby also authorized to substitute other appropriate officials for those designated and correct addresses specified in the appendix to this subpart applicable to the component. The components of the Department of the Treasury for the purposes of this subpart are:

(a) The Departmental Offices, which include the offices of:

(1) The Secretary of the Treasury, including immediate staff;

(2) The Deputy Secretary of the Treasury, including immediate staff;

(3) The Chief of Staff, including immediate staff;

(4) The Executive Secretary and all offices reporting to such official, including immediate staff;

(5) The Under Secretary of the Treasury for International Affairs and all offices reporting to such official, including immediate staff;

(6) The Under Secretary of the Treasury for Domestic Finance and all offices reporting to such official, including immediate staff;

(7) The Under Secretary for Enforcement and all offices reporting to such official, including immediate staff;

(8) The Assistant Secretary of the Treasury for Financial Institutions and all offices reporting to such official, including immediate staff;

(9) The Assistant Secretary of the Treasury for Economic Policy and all offices reporting to such official, including immediate staff;

(10) The Fiscal Assistant Secretary and all offices reporting to such official, including immediate staff;

(11) The General Counsel and all offices reporting to such official, including immediate staff; except legal counsel to the components listed in paragraphs (a)(17) and (b) through (l) of this section;

(12) The Inspector General and all offices reporting to such official, including immediate staff;

§ 1.21

(13) The Assistant Secretary of the Treasury for International Affairs and all offices reporting to such official, including immediate staff;

(14) The Assistant Secretary of the Treasury for Legislative Affairs and Public Liaison and all offices reporting to such official, including immediate staff;

(15) The Assistant Secretary of the Treasury for Management and Chief Financial Officer and all offices reporting to such official, including immediate staff;

(16) The Assistant Secretary of the Treasury for Public Affairs and all offices reporting to such official, including immediate staff;

(17) The Assistant Secretary of the Treasury for Tax Policy and all offices reporting to such official, including immediate staff;

(18) The Treasurer of the United States, including immediate staff;

(19) The Treasury Inspector General for Tax Administration and all offices reporting to such official, including immediate staff.

(b) The Bureau of Alcohol, Tobacco and Firearms.

(c) The Office of the Comptroller of the Currency.

(d) The United States Customs Service.

(e) The Bureau of Engraving and Printing.

(f) The Federal Law Enforcement Training Center.

(g) The Financial Management Service.

(h) The Internal Revenue Service.

(i) The United States Mint.

(j) The Bureau of the Public Debt.

(k) The United States Secret Service.

(l) The Office of Thrift Supervision.

(m) The Office of Thrift Supervision.

For purposes of this subpart, the office of the legal counsel for the components listed in paragraphs (b), (c), (d), (e), (f), (g), (h), (i), and (j) of this section are to be considered a part of such component. Any office, which is now in existence or may hereafter be established, which is not specifically listed or known to be a component of any of those listed above, shall be deemed a

31 CFR Subtitle A (7-1-00 Edition)

part of the Departmental Offices for the purpose of these regulations.

[52 FR 26305, July 14, 1987, as amended at 60 FR 31633, June 16, 1995; 65 FR 2333, Jan. 14, 2000]

§ 1.21 Definitions.

(a) The term *agency* means agency as defined in 5 U.S.C. 552(e);

(b) The term *individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(c) The term *maintain* includes maintain, collect, use, or disseminate;

(d) The term *record* means any item, collection, or grouping of information about an individual that is maintained by the Department of the Treasury or component of the Department. This includes, but is not limited to, the individual's education, financial transactions, medical history, and criminal or employment history and that contains the name, or an identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(e) The term *system of records* means a group of any records under the control of the Department of the Treasury or any component from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(f) The term *statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8.

(g) The term *routine use* means the disclosure of a record that is compatible with the purpose for which the record was collected;

(h) The term *component* means a bureau or office of the Department of the Treasury as set forth in § 1.20 and in the appendices to these regulations. (See 5 U.S.C. 552a(a).)

(i) The term *request for access* means a request made pursuant to 5 U.S.C. 552a(d)(1).

Office of the Secretary of the Treasury

§ 1.22

(j) The term *request for amendment* means a request made pursuant to 5 U.S.C. 552a(d)(2).

(k) The term *request for accounting* means a request made pursuant to 5 U.S.C. 552a(c)(3).

§ 1.22 Requirements relating to systems of records.

(a) *In general.* Subject to 5 U.S.C. 552a(j) and (k) and § 1.23(c), each component shall, in conformance with 5 U.S.C. 552a:

(1) Maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by the statute or by Executive order of the President (See 5 U.S.C. 552a(e)(1)).

(2) Collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. (See 5 U.S.C. 552a(e)(2)).

(b) *Requests for information from individuals.* Subject to 5 U.S.C. 552a(j) and § 1.23(c)(1), each component of the Treasury shall inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual:

(1) The authority (whether granted by statute, or by Executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses which may be made of the information, as published pursuant to 5 U.S.C. 552a(e)(4)(D); and

(4) The effects on such individual, if any, of not providing all or any part of the requested information. (See 5 U.S.C. 552a(e)(3)).

(c) *Report on new systems.* Each component of the Treasury shall provide adequate advance notice to Congress and the Office of Management and Budget through the Disclosure Branch and Administration Section of the Office of the General Counsel of any proposal to establish or alter any system

of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers. (See 5 U.S.C. 552a(o)).

(d) *Accurate and secure maintenance of records.* Each component shall:

(1) Subject to 5 U.S.C. 552a(j) and § 1.23(c)(1), maintain all records which are used in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination (see 5 U.S.C. 552a(e)(5));

(2) Prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to 5 U.S.C. 552 (see 31 CFR part 1, subpart A), make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for Department of the Treasury purposes (see 5 U.S.C. 552a(e)(6)) and

(3) Establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained. (See 5 U.S.C. 552a(e)(10)).

(i) System managers, with the approval of the head of their offices within a component, shall establish administrative and physical controls, consistent with Department regulations, to insure the protection of records systems from unauthorized access or disclosure and from physical damage or destruction. The controls instituted shall be proportional to the degree of sensitivity of the records but at a minimum must insure that records other than those available to the general public under the Freedom of Information Act (5 U.S.C. 552), are protected from public view, that the area in which the records are stored is supervised during all business hours and

§ 1.23

physically secure during nonbusiness hours to prevent unauthorized personnel from obtaining access to the records. Automated systems shall comply with the security standards promulgated by the National Bureau of Standards.

(ii) System managers, with the approval of the head of their offices within a component, shall adopt access restrictions to insure that only those individuals within the agency who have a need to have access to the records for the performance of their duties have access to them. Procedures shall also be adopted to prevent accidental access to, or dissemination of, records.

(e) *Prohibition against maintenance of records concerning First Amendment rights.* No component shall maintain a record describing how any individual exercises rights guaranteed by the First Amendment (e.g. speech), unless the maintenance of such record is:

(1) Expressly authorized by statute, or

(2) Expressly authorized by the individual about whom the record is maintained, or

(3) Pertinent to and within the scope of an authorized law enforcement activity. (See 5 U.S.C. 552a (e)(7))

(f) *Notification of disclosure under compulsory legal process.* Subject to 5 U.S.C. 552a(j) and § 1.23(c)(1), when records concerning an individual are subpoenaed by a Grand Jury, Court, or quasi-judicial agency, or disclosed in accordance with an ex parte court order pursuant to 26 U.S.C. 6103(i), the official served with the subpoena or court order shall make reasonable efforts to assure that notice of any disclosure is provided to the individual. Notice shall be provided within five working days of making the records available under compulsory legal process or, in the case of a Grand Jury subpoena or an ex parte order, within five days of its becoming a matter of public record. Notice shall be mailed to the last known address of the individual and shall contain the following information: the date and authority to which the subpoena is, or was returnable, or the date of and court issuing the ex parte order, the name and number of the case or proceeding, and the nature of the information sought and provided. Notice of

31 CFR Subtitle A (7-1-00 Edition)

the issuance of a subpoena or an ex parte order is not required if the system of records has been exempted from the notice requirement of 5 U.S.C. 552a (e)(8) and this section, pursuant to 5 U.S.C. 552a (j) and § 1.23 (c)(1), by a Notice of Exemption published in the FEDERAL REGISTER. (See 5 U.S.C. 552a (e)(8)).

(g) *Emergency disclosure.* If information concerning an individual has been disclosed to any person under compelling circumstances affecting health or safety, the individual shall be notified at the last known address within 5 days of the disclosure (excluding Saturdays, Sundays, and legal public holidays). Notification shall include the following information: The nature of the information disclosed, the person or agency to whom it was disclosed, the date of disclosure, and the compelling circumstances justifying the disclosure. Notification shall be given by the officer who made or authorized the disclosure. (See 5 U.S.C. 552a (b)(8)).

§ 1.23 Publication in the Federal Register—Notices of systems of records, general exemptions, specific exemptions, review of all systems.

(a) *Notices of systems of records to be published in the FEDERAL REGISTER.* (1) The Department shall publish a notice of the existence and character of all systems of records every 3 years in the FEDERAL REGISTER. An annual notice of systems of records is required to be published by the Office of the Federal Register in the publication entitled "Privacy Act Issuances", as specified in 5 U.S.C. 552a(f).

(2) Minor changes to systems of records shall be published annually. (See paragraph (d)(8) of this section)

(3) In addition, the Department shall publish in the FEDERAL REGISTER upon establishment or revision a notice of the existence and character of any new or revised systems of records. Unless otherwise instructed, each notice shall include:

(i) The name and location of the system;

(ii) The categories of individuals on whom records are maintained in the system;

(iii) The categories of records maintained in the system;

(iv) Each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(v) The policies and practices of the component regarding storage, retrievability, access controls, retention, and disposal of the records;

(vi) The title and business address of the Treasury official who is responsible for the system of records;

(vii) The procedures of the component whereby an individual can be notified if the system of records contain a record pertaining to the individual, including reasonable times, places, and identification requirements.

(viii) The procedures of the component whereby an individual can be notified on how to gain access to any record pertaining to such individual that may be contained in the system of records, and how to contest its content; and

(ix) The categories of sources of records in the system. (See 5 U.S.C. 552a(e)(4))

(b) *Notice of new or modified routine uses to be published in the FEDERAL REGISTER.* At least 30 days prior to a new use or modification of a routine use, as published under paragraph (a)(3)(iv) of this section, each component shall publish in the FEDERAL REGISTER notice of such new or modified use of the information in the system and provide an opportunity for interested persons to submit written data, views, or arguments to the components. (See 5 U.S.C. 552a(e)(11))

(c) *Promulgation of rules exempting systems from certain requirements—(1) General exemptions.* In accordance with existing procedures applicable to a Treasury component's issuance of regulations, the head of each such component may adopt rules, in accordance with the requirements (including general notice) of 5 U.S.C. 553 (b) (1), (2), and (3), (c) and (e), to exempt any system of records within the component from any part of 5 U.S.C. 552a and these regulations except subsections (b) (sec. 1.24, conditions of disclosure), (c)(1) (sec. 1.25, keep accurate accounting of disclosures), (c)(2) (sec. 1.25, retain accounting for five years or life of record), (e)(4) (A) through (F) (paragraph (a) of this section, publication of

annual notice of systems of records), (e)(6) (sec. 1.22(d), accuracy of records prior to dissemination), (e)(7) (sec. 1.22(e), maintenance of records on First Amendment rights), (e)(9) (sec. 1.28, establish rules of conduct), (e)(10) (sec. 1.22(d)(3), establish safeguards for records), (e)(11) (paragraph (c) of this section, publish new intended use), and (i) (sec. 1.28(c), criminal penalties) if the systems of records maintained by the component which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of:

(i) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole, and probation status;

(ii) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(iii) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision. (See 5 U.S.C. 552a(j))

(2) *Specific exemptions.* In accordance with existing procedures applicable to a Treasury component's issuance of regulations, the head of each such component may adopt rules, in accordance with the requirements (including general notice) of 5 U.S.C. 553 (b) (1), (2), and (3), (c), and (e), to exempt any system of records within the component from 5 U.S.C. 552a(c)(3) (sec. 1.25(c)(2), accounting of certain disclosures available to the individual), (d) (sec. 1.26(a), access to records), (e)(1) (sec. 1.22(a)(1), maintenance of information to accomplish purposes authorized by statute or executive order only), (e)(4)(G) (paragraph (a)(7) of this section, publication of procedures for notification), (e)(4)(H)

§ 1.23

(paragraph (a)(8) of this section, publication of procedures for access and contest), (e)(4)(I) (paragraph (a)(9) of this section, publication of sources of records), and (f) (sec. 1.26, promulgate rules for notification, access and contest), if the system of records is:

(i) Subject to the provisions of 5 U.S.C. 552(b)(1);

(ii) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of 5 U.S.C. 552a and paragraph (a)(1) of this section. If any individual is denied any right, privilege, or benefit that such individual would otherwise be entitled to by Federal law, or for which such individual would otherwise be eligible, as a result of the maintenance of this material, such material shall be provided to the individual, except to the extent that the disclosure of the material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence;

(iii) Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056;

(iv) Required by statute to be maintained and used solely as statistical records;

(v) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence;

(vi) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(vii) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(3) At the time that rules under this subsection are adopted, the head of the component shall include in the statement required under 5 U.S.C. 553(c) the reasons why the system of records is to be exempted from a provision of 5 U.S.C. 552a and this part. (See 5 U.S.C. 552a (j) and (k))

(d) *Review and report to OMB.* The Department shall ensure that the following reviews are conducted as often as specified below by each of the components who shall be prepared to report to the Departmental Disclosure Branch upon request the results of such reviews and any corrective action taken to resolve problems uncovered. Each component shall:

(1) Review every two years a random sample of the component's contracts that provide for the maintenance of a system of records on behalf of the component to accomplish a function of the component, in order to ensure that the working of each contract makes the provisions of the Act apply. (5 U.S.C. 552a(m)(1))

(2) Review annually component's recordkeeping and disposal policies and practices in order to assure compliance with the Act.

(3) Review routine use disclosures every 3 years, that are associated with each system of records in order to ensure that the recipient's use of such records continues to be compatible with the purpose for which the disclosing agency originally collected the information.

(4) Review every three years each system of records for which the component has issued exemption rules pursuant to section (j) or (k) of the Privacy Act in order to determine whether the exemption is needed.

31 CFR Subtitle A (7-1-00 Edition)

Office of the Secretary of the Treasury

§ 1.24

(5) Review annually each ongoing matching program in which the component has participated during the year, either as a source or as a matching agency in order to assure that the requirements of the Act, the OMB Matching Guidelines, and the OMB Model Control System and checklist have been met.

(6) Review component's training practices annually to ensure that all component personnel that have resulted either in the agency being found civilly liable under section (g) of the Act, or an employee being found criminally liable under the provisions of section (i) of the Act, in order to determine the extent of the problem and to prevent future recurrences.

(7) Review annually the actions of component personnel that have resulted either in the agency being found civilly liable under section (g) of the Act, or an employee being found criminally liable under the provisions of section (i) of the Act, in order to determine the extent of the problem and to prevent future recurrences.

(8) Review annually each system of records notice to ensure that it accurately describes the system. Where minor changes are needed, publish an amended notice in the FEDERAL REGISTER. Minor changes shall be consolidated in one annual comprehensive publication. The term "minor change to a system of records" means a change that does not significantly change the system. More specifically, a minor change does not affect the character or purpose of the system and does not affect the ability of an individual to gain access to a record about the individual or to any information pertaining to such individual which is contained in the system; for example, changing the title of the system manager or the location of the system.

§ 1.24 Disclosure of records to person other than the individual to whom they pertain.

(a) *Conditions of disclosure.* No component of Treasury shall disclose any record which is contained in a system of records maintained by it by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, or the parent, if a minor, or legal guardian, if incompetent, of such individual,

unless disclosure of the record would be:

(1) To those offices and employees of the Department of the Treasury who have a need for the record in the performance of their duties;

(2) Retired under 5 U.S.C. 552 (subpart A of this part);

(3) For a routine use as defined in 5 U.S.C. 552a(a)(7) and § 1.21(g) and as described under 5 U.S.C. 552a(e)(4)(D) and § 1.23(a)(4);

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13 of the U.S. Code;

(5) To a recipient who has provided the component with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or the designee of such official to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity.

(i) If the activity is authorized by law; and

(ii) If the head of the agency or instrumentality has made a written request to the Department of the Treasury specifying the particular portion desired and the law enforcement activities for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon such disclosure, notification is transmitted to the last known address of such individual;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee.

§ 1.25

(10) To the Comptroller General, or the authorized representatives of such official, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction. (See 5 U.S.C. 552a(b))

§ 1.25 Accounting of disclosures.

(a) *Accounting of certain disclosures.* Each component, with respect to each system of records under its control, shall:

(1) Keep an accurate accounting of:

- (i) The date, nature, and purpose of each disclosure of a record to any person or to an agency made under 5 U.S.C. 552a (b) and § 1.24; and (ii) the name and address of the person or agency to whom the disclosure is made;

(2) Retain the accounting made under paragraph (a)(1) of this section for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made; and

(3) Inform any person or other agency about any correction or notation of dispute made by the constituent unit in accordance with 5 U.S.C. 552a (d) and § 1.28 of any record that has been disclosed to the person or agency if an accounting of the disclosure was made. (See 5 U.S.C. 552(c).)

(b) *Accounting systems.* To permit the accounting required by paragraph (a) of this section, system managers, with the approval of the head of their offices within a component, shall establish or implement, a system of accounting for all disclosures of records, either orally or in writing, made outside the Department of the Treasury. Accounting records shall:

(1) Be established in the least expensive and most convenient form that will permit the system manager to advise individuals, promptly upon request, what records concerning them have been disclosed and to whom;

(2) Provide, as a minimum, the identification of the particular record disclosed, the name and address of the person or agency to whom or to whom or to which disclosed, and the date, nature and purpose of the disclosure; and

(3) Be maintained for 5 years or until the record is destroyed or transferred

31 CFR Subtitle A (7–1–00 Edition)

to the National Archives and Records Service for storage in records centers, in which event, the accounting pertaining to those records, unless maintained separately, shall be transferred with the records themselves.

(c) *Exemptions from accounting requirements.* No accounting is required for disclosure of records:

(1) To those officers and employees of the Department of the Treasury who have a need for the record in the performance of their duties; or

(2) If disclosure would be required under 5 U.S.C. 552 and Subpart A of this part.

(d) *Access to accounting by individual.*

(1) Subject to paragraphs (c) and (d)(2) of this section, each component shall establish and set forth in the appendix to this subpart applicable to the component, procedures for making the accounting required under paragraph (a) of this section available to the individual to whom the record pertains and shall thereafter make such accounting available in accordance therewith at the request of the individual. The procedures may require the requester to provide reasonable identification.

(2) Access accountings of disclosure may be withheld from the individual named in the record only if the disclosures were (i) made under 5 U.S.C. 552a (b)(7) and § 1.24 (a)(7), or (ii) under a system of records exempted from the requirements of 5 U.S.C. 552a(c)(3) in accordance with 5 U.S.C. 552 (j) or (k) and § 1.23(c). (See 5 U.S.C. 552a(c))

§ 1.26 Procedures for notification and access to records pertaining to individuals—format and fees for request for access.

(a) *Procedures for notification and access.* Each component shall establish, in accordance with the requirements of 5 U.S.C. 553, and set forth in the appendix to this subpart applicable to such component procedures whereby an individual can be notified, in response to a request, if any system of records named by the individual contains a record pertaining to that individual. In addition, such procedures shall set forth the requirements for access to such records. As a minimum such procedures shall specify the times during, and the places at which access will be

accorded, together with such identification as may be required of the individual before access. (See 5 U.S.C. 552a(f) (1), (2) and (3))

(b) *Access.* Each component in accordance with the procedures prescribed under paragraph (a) of this section, shall allow an individual to gain access to records or to any information pertaining to such individual which is contained in the system of records upon request. The individual shall be permitted to review the record and have a copy made of all or any portion of the record in a form that is comprehensible. The individual will also be permitted to be accompanied by any person of the individual's choosing to review the record, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence. (See 5 U.S.C. 552a(d)(1))

(c) *Exceptions.* Neither the procedures prescribed under paragraph (a) of this section nor the requirements for access under paragraph (b) of this section shall be applicable to—(1) systems of records exempted pursuant to 5 U.S.C. 552a (j) and (k) and § 1.23(c); (2) information compiled in reasonable anticipation of a civil action or proceeding (See 5 U.S.C. 552(d)(5)); or (3) information pertaining to an individual which is contained in, and inseparable from, another individual's record.

(d) *Format of request.* (1) A record for notification of whether a record exists shall:

(i) Be made in writing and signed by the person making the request, who must be the individual about whom the record is maintained, or such individual's duly authorized representative (See § 1.34);

(ii) State that it is made pursuant to the Privacy Act, 5 U.S.C. 552a or these regulations, have marked "Privacy Act Request" on the request and on the envelope;

(iii) Give the name of the system or subsystem or categories of records to which access is sought, as specified in "Privacy Act Issuances" published by the Office of the Federal Register and referenced in the appendices to this subpart;

(iv) Describe the nature of the record(s) sought in sufficient detail to enable Department personnel to locate the system of records containing the record with a reasonable amount of effort. Whenever possible, a request for access should describe the nature of the record sought, the date of the record or the period in which the record was compiled.

(v) Provide such identification of the requester as may be specified in the appropriate appendix to this subpart; and

(vi) Be addressed or delivered in person to the office or officer of the component indicated for the particular system or subsystem or categories of records the individual wishes access to, as specified in "Privacy Act Issuances" published by the Office of the Federal Register and referenced in the appendices to this subpart. Assistance in ascertaining the appropriate component or in preparing a request for notification may be obtained by a written request to this effect addressed as specified in Appendix A of this part, as the address for the Departmental Offices for "Request for notification and access to records and accountings of disclosures".

(2) A request for access to records shall, in addition to complying with paragraph (a)(1)(i) through (vi) of this section:

(i) State whether the requester wishes to inspect the records or desires to have a copy made and furnished without first inspecting them;

(ii) If the requester desires to have a copy made, state the firm agreement of the requester to pay the fees for duplication ultimately determined in accordance with (31 CFR 1.6) Subpart A of this title, unless such fees are waived pursuant to that section by the system manager or other appropriate official as indicated in the appropriate appendix to these regulations; and

(iii) Comply with any other requirement set forth in the applicable appendix to this subpart or the "Notice of Records Systems" applicable to the system in question. Requesters are hereby advised that any request for access which does not comply with the foregoing requirements and those set forth elsewhere in this Subpart C, will

§ 1.26

not be deemed subject to the time constraints of this section, unless and until amended so as to comply. However, components shall advise the requester in what respect the request is deficient so that it may be processed. This section applies only to records which are contained in a system of records and which are in the possession or control of the component. (See 5 U.S.C. 552a (d) and (f))

(e) *Requests for records not in control of component.* (1) Treasury employees shall make reasonable efforts to assist an oral requester to ascertain to which office or officer a written request should be sent. When the request is for a record which is not in the possession or control of any component of the Department of the Treasury, the requester shall be so advised.

(2) Where the record requested was created by a Department or agency other than the Department of the Treasury or a component of the Department and has been classified (e.g. National Defense or Intelligence Information) or otherwise restrictively endorsed (e.g. Office of Personnel Management records of FBI reports) by such other Department or agency, and a copy is in the possession of a component of the Department of the Treasury, that portion of the request shall be referred to the originating agency for determination as to all issues in accordance with the Privacy Act. In the case of a referral to another agency under this paragraph, the requester shall be notified that such portion of the request has been so referred and that the requester may expect to hear from that agency.

(3) When information sought from a system manager or other appropriate official in the Department of the Treasury includes information furnished by other Federal agencies not classified or otherwise restrictively endorsed, the system manager or other appropriate official receiving the request shall consult with the appropriate agency prior to making a decision to disclose or not to disclose the record. The decision as to whether the record shall be disclosed shall be made, in the first instance by the system manager or other appropriate official

31 CFR Subtitle A (7-1-00 Edition)

maintaining the record. (See 5 U.S.C. 552a (d) and (f))

(f) *Date of receipt of request.* A request for notification or access to records shall be considered to have been received for purposes of this subpart on the date on which the requirements of paragraph (d) of this section have been satisfied. Requests for notification or access to records and any separate agreement to pay shall be stamped or endorsed with the date of receipt by the receiving office. The latest of such stamped dates will be deemed to be the date of receipt of the request for the purposes of this subpart. (See 5 U.S.C. 552a (d) and (f))

(g) *Notification of determination—(1) In general.* Notification of determinations as to notification of whether a record exists or as to whether to grant access to records requested will be made by the officers designated in the appendices to this subpart. The notification of the determination shall be mailed within 30 days (excluding Saturdays, Sundays and legal public holidays) after the date of receipt of the request, as determined in accordance with paragraph (f) of this section. If it is not possible to respond within 30 days, the designated officer shall inform the requester, stating the reason for the delay (e.g. volume of records requested, scattered location of the records, need to consult other agencies, or the difficulty of the legal issues involved) and when a response will be dispatched. (See 5 U.S.C. 552a (d) and (f))

(2) *Granting of access.* When it has been determined that the request for access will be granted—(i) and a copy requested; such copy in a form comprehensible to the requester shall be furnished promptly, together with a statement of the applicable fees for duplication; and (ii) and the right to inspect has been requested, the requester shall be promptly notified in writing of the determination, and when and where the requested records may be inspected. An individual seeking to inspect such records may be accompanied by another person of such individual's choosing. The individual seeking access shall be required to sign the required form indicating that the Department of the Treasury is authorized to discuss the contents of the subject

record in the accompanying person's presence. If, after making the inspection, the individual making the request desires a copy of all or a portion of the requested records, such copy in a form comprehensible to the individual shall be furnished upon payment of the applicable fees for duplication. Fees to be charged are as prescribed by 31 CFR part 1, Subpart A, § 1.6 Fees shall not be charged where they would amount, in the aggregate, to less than \$3.00. (See 5 U.S.C. 552a (d) and (f))

(3) *Requirements for access to medical records.* When access is requested to medical records, including psychological records, the responsible official may determine that such release could have an adverse effect on the individual and that release will be made only to a physician authorized in writing to have access to such records by the individual making the request. Upon receipt of the authorization the physician will be permitted to review the records or to receive copies of the records by mail, upon proper verification of identity. (See 5 U.S.C. 552a (f) (3))

(4) *Denial of request.* When it is determined that the request for notification of whether a record exists or access to records will be denied (whether in whole or part or subject to conditions or exceptions), the person making the request shall be so notified by mail in accordance with paragraph (g)(1) of this section. The letter of notification shall specify the city or other location where the requested records are situated (if known), contain a statement of the reasons for not granting the request as made, set forth the name and title or position of the responsible official and advise the individual making the request of the right to file suit in accordance with 5 U.S.C. 552a (g)(1)(B).

(5) *Prohibition against the use of 5 U.S.C. 552 (b) exemptions.* Exemptions from disclosure under 5 U.S.C. 552 (b) (31 CFR part 1, Subpart A, § 1.2 (c)), may not be invoked for the purpose of withholding from an individual any record which is otherwise accessible to such individual under the Privacy Act, 5 U.S.C. 552a and this subpart. (See 5 U.S.C. 552a (q))

(6) *Records exempt in whole or in part.*
(i) When an individual requests notification

as to whether a record exists or access to records concerning the individual which have been exempted from individual access pursuant to 5 U.S.C. 552a (j) or which have been compiled in reasonable anticipation of a civil action or proceeding in either a court or before an administrative tribunal and the assertion of the exemption is deemed necessary, the Department of the Treasury will neither confirm nor deny the existence of the record but shall advise the individual only that no record available to the individual pursuant to the Privacy Act of 1974 has been identified.

(ii) Requests from individuals for access to records which have been exempted from access pursuant to 5 U.S.C. 552a (k) shall be processed as follows:

(A) Requests for information classified pursuant to Executive Order 11652 require the responsible component of the Department to review the information to determine whether it continues to warrant classification under the criteria of sections 1 and 5 (B), (C), (D) and (E) of the Executive order. Information which no longer warrants classification under these criteria shall be declassified and made available to the individual. If the information continues to warrant classification, the individual shall be advised that the information sought is classified, that it has been reviewed and continues to warrant classification, and that it has been exempted from access pursuant to 5 U.S.C. 552 (b)(1) and 5 U.S.C. 552a (k)(1). Information which has been exempted pursuant to 5 U.S.C. 552a (j) and which is also classified shall be reviewed as required by this paragraph but the response to the individual shall be in the form prescribed by paragraph (g)(6)(i) of this section.

(B) Requests for information which has been exempted from disclosure pursuant to 5 U.S.C. 552a (k)(2) shall be responded to in the manner provided in paragraph (g)(6)(i) of this section unless the requester shows that the information has been used or is being used to deny the individual any right, privilege or benefit for which he is eligible or to which he would otherwise be entitled under federal law. In that event, the individual shall be advised of the

§ 1.27

existence of the information but such information as would identify a confidential source shall be extracted or summarized in a manner which protects the source to the maximum degree possible and the summary extract shall be provided to the requesting individual.

(C) Information compiled as part of an employee background investigation which has been exempted pursuant to 5 U.S.C. 552a (k)(5) shall be made available to an individual upon request except to the extent that it identifies the confidential source. Material identifying the confidential sources shall be extracted or summarized in a manner which protects the source to the maximum degree possible and the summary or extract shall be provided to the requesting individual.

(D) Testing or examination material which has been exempted pursuant to 5 U.S.C. 552a (k)(6) shall not be made available to an individual if disclosure would compromise the objectivity or fairness of the testing or examination process; but may be made available if no such compromise possibility exists. (See 5 U.S.C. 552a (d)(5), (j) and (k)).

§ 1.27 Procedures for amendment of records pertaining to individuals—format, agency review and appeal from initial adverse agency determination.

(a) *In general.* Subject to the application of exemptions promulgated by the head of each component, in accordance with § 1.23(c), and subject to § 1.27(f), each component of the Department of the Treasury, shall in conformance with 5 U.S.C. 552a(d)(2), permit an individual to request amendment of a record pertaining to such individual. Any request for amendment of records or any appeal that does not fully comply with the requirements of this section and any additional specific requirements imposed by the component in the applicable appendix to this subpart will not be deemed subject to the time constraints of paragraph (e) of this section, unless and until amended so as to comply. However, components shall advise the requester in what respect the request or appeal is deficient so that it may be resubmitted or amended. (See 5 U.S.C. 552a (d) and (f))

31 CFR Subtitle A (7–1–00 Edition)

(b) *Form of request to amend records.* In order to be subject to the provisions of this section, a request to amend records shall:

(1) Be made in writing and signed by the person making the request, who must be the individual about whom the record is maintained, or the duly authorized representative of such individual;

(2) State that it is made pursuant to the Privacy Act, 5 U.S.C. 552a or these regulations, have marked “Privacy Act Amendment Request” on the request and on the envelope;

(3) Be addressed to the office or officer of the component specified for such purposes in “Privacy Act Issuances” published by the Office of the Federal Register and referenced in the appendices to this subpart for that purpose; and

(4) Reasonably describe the records which the individual desires to have amended, including, to the best of the requester’s knowledge, dates of letters requesting access to such records previously and dates of letters in which notification concerning access was made, if any, and the individual’s documentation justifying the correction. (See U.S.C. 552a (d) and (f))

(c) *Date of receipt of request.* A request for amendment of records pertaining to an individual shall be deemed to have been received for purposes of this subpart when the requirements of paragraph (b) of this section have been satisfied. The receiving office or officer shall stamp or otherwise endorse the date of receipt of the request. (See 5 U.S.C. 552a (d) and (f))

(d) *Review of requests to amend records.* Officials responsible for review of requests to amend records pertaining to an individual, as specified in the appropriate appendix to this subpart, shall:

(1) Not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(2) Promptly, either—(i) Make any correction of any portion which the individual believes and the official agrees is not accurate, relevant, timely, or complete; or

(ii) Inform the individual of the refusal to amend the record in accordance with the individual's request, the reason for the refusal, and the name and business address of the officer designated in the applicable appendix to this subpart, as the person who is to review such refusal. (See 5 U.S.C. 552a (d) and (f))

(e) *Administrative appeal*—(1) *In general.* Each component shall permit individuals to request a review of initial decisions made under paragraph (d) of this section, when an individual disagrees with a refusal to amend this record. (See 5 U.S.C. 552a (d), (f), and (g)(1))

(2) Form of request for administrative review of refusal to amend record. At any time within 35 days after the date of the notification of the initial decision described in paragraph (d)(2)(ii) of this section, the requester may submit an administrative appeal from such refusal to the official specified in the notification of the initial decision and the appropriate appendix to this subpart. The appeal shall:

(i) Be made in writing stating any arguments in support thereof and be signed by the person to whom the record pertains, or the duly authorized representative of such official;

(ii) Be addressed to and mailed or hand delivered within 35 days of the date of the initial decision, to the office or officer specified in the appropriate appendix to this subpart and in the notification. (See the appendices to this subpart for the address to which appeals made by mail should be addressed);

(iii) Have clearly marked on the appeal and on the envelope, "Privacy Act Amendment Appeal";

(iv) Reasonably describe the records requested to be amended; and

(v) Specify the date of the initial request, to amend records, and the date of the letter giving notification that the request was denied. (See 5 U.S.C. 552a (d) and (f))

(3) *Date of receipt.* Appeals shall be promptly stamped with the date of their receipt by the office to which addressed and such stamped date will be deemed to be the date of receipt for all purposes of this subpart. The receipt of the appeal shall be acknowledged with-

in 10 days (excluding Saturdays, Sundays, and legal public holidays) from the date of the receipt (unless the determination on appeal is dispatched in 10 days, in which case, no acknowledgment is required) by the responsible official and the requester advised of the date of receipt established by the foregoing and when a response is due in accordance with this paragraph. (See 5 U.S.C. 552a (d) and (f))

(4) *Review of administrative appeals from denial of requests to amend records.* Officials responsible for deciding administrative appeals from denials of requests to amend records pertaining to an individual, as specified in the appendices to this subpart shall: Complete the review, and notify the requester of the final agency decision within 30 days (exclusive of Saturdays, Sundays and legal public holidays) after the date of receipt of such appeal, unless the time is extended by the head of the agency or the delegate of such official, for good cause shown. If such final agency decision is to refuse to amend the record, in whole or in part, the requester shall also be advised of the right—(i) to file a concise "Statement of Disagreement" setting forth the reasons for his disagreement with the decision which shall be filed within 35 days of the date of the notification of the final agency decision and (ii) to judicial review of the final agency decision under 5 U.S.C. 552a(g)(1)(A). (See 5 U.S.C. 552a (d), (f) and (g)(1))

(5) *Notation on record and distribution of statements of disagreement.* The system manager is responsible, in any disclosure containing information about which an individual has filed a "Statement of Disagreement", occurring after the filing of the statement under paragraph (e)(4) of this section, for clearly noting any portion of the record which is disputed and providing copies of the statement and, if deemed appropriate, a concise statement of the component's reasons for not making the amendments requested to persons or other agencies to whom the disputed record has been disclosed. (See 5 U.S.C. 552a(d)(4))

(f) *Records not subject to correction under the Privacy Act.* The following records are not subject to correction or amendment by individuals:

§ 1.28

(1) Transcripts or written statements made under oath; and

(2) Transcripts of Grand Jury proceedings, judicial or quasi-judicial proceedings which form the official record of those proceedings; and

(3) Pre-sentence reports comprising the property of the courts but maintained in agency files; and

(4) Records pertaining to the determination, the collection and the payment of the Federal taxes; and

(5) Records duly exempted from correction by notice published in the FEDERAL REGISTER; and

(6) Records compiled in reasonable anticipation of a civil action or proceeding.

§ 1.28 Training, rules of conduct, penalties for non-compliance.

(a) *Training.* Subject to policy guidance and regulations issued by the Deputy Secretary, who has Department-wide responsibility therefor, each component shall institute a training program to instruct employees and employees of Government contractors covered by 5 U.S.C. 552a(m), who are involved in the design, development, operation or maintenance of any system of records, on a continuing basis with respect to the duties and responsibilities imposed on them and the rights conferred on individuals by the Privacy Act, the regulations in this subpart, including the appendices thereto, and any other related regulations. Such training shall provide suitable emphasis on the civil and criminal penalties imposed on the Department and the individual employees by the Privacy Act for non-compliance with specified requirements of the Act as implemented by the regulations in this subpart. (See 5 U.S.C. 552a(e)(9))

(b) *Rules of conduct.* In addition, to the Standards of Conduct published in part O of this title, particularly 31 CFR 0.735-44, the following are applicable to employees of the Department of the Treasury (including, to the extent required by the contract or 5 U.S.C. 552a(m), Government contractors and employees of such contractors), who are involved in the design, development, operation or maintenance of any system of records, or in maintaining any records, for or on behalf of the De-

31 CFR Subtitle A (7-1-00 Edition)

partment, including any component thereof.

(1) The head of each office of a component of the Department shall be responsible for assuring that employees subject to such official's supervision are advised of the provisions of the Privacy Act, including the criminal penalties and civil liabilities provided therein, and the regulations in this subpart, and that such employees are made aware of their individual and collective responsibilities to protect the security of personal information, to assure its accuracy, relevance, timeliness and completeness, to avoid unauthorized disclosure either orally or in writing, and to insure that no information system concerning individuals, no matter how small or specialized is maintained without public notice.

(2) Employees of the Department of the Treasury involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record shall:

(i) Collect no information of a personal nature from individuals unless authorized to collect it to achieve a function or carry out a responsibility of the Department;

(ii) Collect from individuals only that information which is necessary to Department functions or responsibilities, unless related to a system exempted under 5 U.S.C. 552a (j) or (k);

(iii) Collect information, wherever possible, directly from the individual to whom it relates, unless related to a system exempted under 5 U.S.C. 552a(j);

(iv) Inform individuals from whom information is collected about themselves of the authority for collection, the purposes thereof, the use that will be made of the information, and the effects, both legal and practical, of not furnishing the information. (While this provision does not explicitly require it, where feasible, third party sources should be informed of the purposes for which information they are asked to provide will be used.);

(v) Neither collect, maintain, use nor disseminate information concerning an individual's religious or political beliefs or activities or membership in associations or organizations, unless (A)

the individual has volunteered such information for the individual's own benefits; (B) the information is expressly authorized by statute to be collected, maintained, used or disseminated; or (C) the activities involved are pertinent to and within the scope of an authorized investigation, adjudication or correctional activity;

(vi) Advise their supervisors of the existence or contemplated development of any record system which is capable of retrieving information about individuals by individual identifier;

(vii) Disseminate no information concerning individuals outside the Department except when authorized by 5 U.S.C. 552a or pursuant to a routine use published in the FEDERAL REGISTER;

(viii) Assure that an accounting is kept in the prescribed form, of all dissemination of personal information outside the Department, whether made orally or in writing, unless disclosed under 5 U.S.C. 552 and subpart A of this part;

(ix) Maintain and process information concerning individuals with care in order to insure that no inadvertent disclosure of the information is made either within or without the Department; and

(x) Assure that the proper Department authorities are aware of any information in a system maintained by the Department which is not authorized to be maintained under the provisions of the Privacy Act of 1974, including information on First Amendment Activities, information that is inaccurate, irrelevant or so incomplete as to risk unfairness to the individual concerned.

(3) Heads of components within the Department or their delegates shall, at least annually, review the record systems subject to their supervision to insure compliance with the provisions of the Privacy Act of 1974 and the regulations in this subpart. (See 5 U.S.C. 552a (e)(9), (i) and (m))

(c) *Criminal penalties.* (1) The Privacy Act imposes criminal penalties on the conduct of Government officers or employees as follows: Any officer or employee of an agency (which term includes the Department of the Treasury):

(i) Who by virtue of the official's employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section (5 U.S.C. 552a) or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, or

(ii) Who willfully maintains a system of records without meeting the notice requirements of paragraph (e)(4) of this section (5 U.S.C. 552a)—shall be guilty of a misdemeanor and fined not more than \$5,000.

(2) The Act also imposes a collateral criminal penalty on the conduct of any person as follows:

"Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000."

(3) For the purposes of 5 U.S.C. 552a (i), the provisions of paragraph (c)(1) of this section are applicable to Government contractors and employees of such contractors who by contract, operate by or on behalf of the Department of the Treasury a system of records to accomplish a Departmental function. Such contractor and employees are considered employees of the Department of the Treasury for the purposes of 5 U.S.C. 552a(i). (See 5 U.S.C. 552a (i) and (m).)

§ 1.29 Records transferred to Federal Records Center or National Archives of the United States.

(a) *Records transferred to the Administrator of General Services for storage in the Federal Records Center.* Records pertaining to an identifiable individual which are transferred to the Federal Records Center in accordance with 44 U.S.C. 3103 shall, for the purposes of the Privacy Act, 5 U.S.C. 552a, be considered to be maintained by the component which deposited the record and shall be subject to the provisions of the Privacy Act and this subpart. The Administrator of General Services shall not disclose such records except to the

§ 1.30

Department of the Treasury or to others under rules consistent with the Privacy Act which may be established by the Department of the Treasury or a component. If such records are retrieved for the purpose of making a determination about an individual, they must be reviewed for accuracy, relevance, timeliness, and completeness.

(b) *Records transferred to the National Archives of the United States.* (1) Records transferred to National Archives prior to September 27, 1975. Records pertaining to an identifiable individual transferred to the National Archives prior to September 27, 1975, as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government shall be considered to be maintained by the National Archives, and

(i) Shall not be subject to 5 U.S.C. 552a,

(ii) Except, that a statement describing such records [modeled after 5 U.S.C. 552a (e)(4) (A) through (G)] shall be published in the FEDERAL REGISTER.

(2) *Records transferred to National Archives on or after September 27, 1975.* Records pertaining to an identifiable individual transferred to the National Archives as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after September 27, 1975, shall be considered to be maintained by the National Archives, and

(i) Shall not be subject to 5 U.S.C. 552a,

(ii) Except, that a statement describing such records in accordance with 5 U.S.C. 552a (e)(4) (A) through (G) shall be published in the FEDERAL REGISTER and rules of conduct and training in accordance with 5 U.S.C. 552 (e) (9) are to be established by the National Archives. (See 5 U.S.C. 552a (e))

§ 1.30 Application to system of records maintained by Government contractors.

When a component contracts for the operation of a system of records, to accomplish a Departmental function, the provisions of the Privacy Act, 5 U.S.C. 552a, and this subpart shall be applicable to such system. The component shall have responsibility for insuring

31 CFR Subtitle A (7-1-00 Edition)

that the contractor complies with the contract requirements relating to privacy.

§ 1.31 Sale or rental of mailing lists.

(a) *In general.* An individual's name and address shall not be sold or rented by a component unless such action is specifically authorized by law.

(b) *Withholding of names and addresses.* This section shall not be construed to require the withholding of names and addresses otherwise permitted to be made public. (See 5 U.S.C. 552a (n)).

§ 1.32 Use and disclosure of social security numbers.

(a) *In general.* An individual shall not be denied any right, benefit, or privilege provided by law by a component because of such individual's refusal to disclose his social security number.

(b) *Exceptions.* The provisions of paragraph (a) of this section shall not apply with respect to:

(1) Any disclosure which is required by Federal statute, or

(2) The disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(c) *Requests for disclosure of social security number.* Any component which requests an individual to disclose his or her social security account number shall inform that individual whether:

(1) Disclosure is mandatory or voluntary.

(2) By what statutory or other authority such number is solicited, and

(3) What uses will be made of it. (See section 7 of the Privacy Act of 1974 set forth at 5 U.S.C. 552a, note.)

§ 1.34 Guardianship.

The parent or guardian of a minor or a person judicially determined to be incompetent shall, in addition to establishing the identity of the minor or other person represented, establish parentage or guardianship by furnishing a copy of a birth certificate showing parentage or a court order establishing the guardianship and may thereafter,

Office of the Secretary of the Treasury

§ 1.36

act on behalf of such individual. (See 5 U.S.C. 552a (h))

§ 1.35 Information forms.

(a) *Review of forms.* Except for forms developed and used by constituent units, the Deputy Assistant Secretary for Administration shall be responsible for reviewing all forms developed and used by the Department of the Treasury to collect information from and about individuals. The heads of components shall each be responsible for the review of forms used by such component to collect information from and about individuals.

(b) *Scope of review.* The responsible officers shall review each form for the purpose of eliminating any requirement for information that is not relevant and necessary to carry out an agency function and to accomplish the following objectives;

(1) To insure that no information concerning religion, political beliefs or activities, association memberships (other than those required for a professional license), or the exercise of First Amendment rights is required to be disclosed unless such requirement of disclosure is expressly authorized by statute or is pertinent to, and within the scope of, any authorized law enforcement activity;

(2) To insure that the form or a separate form that can be retained by the individual makes clear to the individual which information he is required by law to disclose and the authority for that requirement and which information is voluntary;

(3) To insure that the form or a separate form that can be retained by the individual states clearly the principal purpose or purposes for which the information is being collected, and summarizes concisely the routine uses that will be made of the information;

(4) To insure that the form or a separate form that can be retained by the individual clearly indicates to the individual the effect in terms of rights, benefits or privileges of not providing all or part of the requested information; and

(5) To insure that any form requesting disclosure of a Social Security Number, or a separate form that can be retained by the individual, clearly ad-

vises the individual of the statute or regulation requiring disclosure of the number or clearly advises the individual that disclosure is voluntary and that no consequence will follow from the refusal to disclose it, and the uses that will be made of the number whether disclosed mandatorily and voluntarily.

(c) *Revision of forms.* Any form which does not meet the objectives specified in the Privacy Act and in this section, shall be revised to conform thereto. A separate statement may be used in instances when a form does not conform. This statement will accompany a form and shall include all the information necessary to accomplish the objectives specified in the Privacy Act and this section.

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.

In accordance with 5 U.S.C. 552a (j) and (k) and § 1.23(c), constituent units of the Department of the Treasury exempt the following systems of records from certain provisions of the Privacy Act for the reasons indicated:

OFFICE OF THE SECRETARY

OFFICE OF THE GENERAL COUNSEL

Notice exempting a system of records from requirements of the Privacy Act

(a) *In general.* The General Counsel of the Treasury exempts the system of records entitled "Treasury Interagency Automated Litigation System (TRIALS)" from the provisions of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) of 5 U.S.C. 552a. The manual part of this system of records contains information or documents relating to litigation or administrative proceedings involving or concerning the Department or its officials, and includes pending, active and closed files. The manual records consist of copies of pleadings, investigative reports, information compiled in reasonable anticipation of a civil action or proceeding, legal memoranda, and related correspondence. Pleadings which have been filed with a court or administrative tribunal are matters of public record and no exemption is claimed as

§ 1.36

to them. The computerized part of the system contains summary data on Treasury Department non-tax litigation and administrative proceedings, e.g., plaintiff, defendant, attorney, witness, judge and/or hearing officer names, type of case, relief sought, date, docket number, pertinent dates, and issues. The purpose of the exemptions is to maintain the confidentiality of investigatory materials compiled for law enforcement purposes; information compiled in reasonable anticipation of a civil action a proceeding is exempt from access under section (d)(5) until the file is closed; thereafter section (k)(2) may apply in part to the information. Legal memorandum and related correspondence contain no personal information and are not subject to disclosure under section 552a. Determinations concerning whether particular information contained in this system is exempt from disclosure will be made at the time a request is received from an individual to gain access to information pertaining to him.

(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552a(k), and pursuant to the authority vested in the General Counsel by 31 CFR 1.23(c).

(c) *Name of system.* Treasury Inter-agency Automated Litigation System (TRIALS).

(d) *Provisions from which exempted.* This system contains records described in 5 U.S.C. 552a(k), the Privacy Act of 1974. Exemption will be claimed for such records only where appropriate from the following provisions, subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. 552a.

(e) *Reasons for claimed exemptions.* Those sections would otherwise require the Department to notify an individual of investigatory materials maintained in a record pertaining to him, permit access to such record, permit requests for its correction (section 552a(d), (e)(4)(G), (H), and (f)); make available to him any required accounting of disclosures made of the record (section 552a(c)(3)), publish the sources of records in the system (section 552a(e)(4)(I)); and screen records to insure that there is maintained only such information about an individual as is

31 CFR Subtitle A (7-1-00 Edition)

relevant to accomplish a required purpose of the Department (section 552a(e)(1)). The records compiled for the prosecution or defense of civil litigation on behalf of the Department or its officials contain investigatory materials compiled for litigation purposes, together with memoranda concerning the applicable law, and related correspondence. The use of investigatory material in court proceedings is governed by due process and statutory procedural requirements. Informing individuals that they are on record in a particular system enables such individuals to learn the nature of the investigatory material and the evidentiary basis for prosecuting or defending legal proceedings to which they are a party; furthermore, the disclosure of certain investigatory material compiled for law enforcement purposes may disclose investigative techniques and procedures so that future law enforcement efforts would be hindered. Access to an accounting of disclosures of such records would have a similar detrimental effort upon the successful prosecution of legal claims. In addition, screening for relevancy to Department purposes, and correction or attempted correction of such materials could require excessive amounts of time and effort on the part of all concerned. Accordingly, the General Counsel finds that the public interest and public policy in maintaining an effective legal services program requires exemption from the stated sections of the Act to the extent that they are applicable to appropriate materials in this system.

OFFICE OF THE INSPECTOR GENERAL

Notice exempting a system of records from the disclosure requirements of the Privacy Act of 1974

(a) *In general.* The Office of the Inspector General, Department of the Treasury exempts the system of records entitled, "General Allegations and Investigative Records" from certain provisions of the Privacy Act of 1974. The purpose of the exemption is to maintain confidentiality of data obtained from various sources that may ultimately accomplish a statutory or executively ordered purpose.

(b) *Authority*: The authority to issue exemptions is vested in the Office of the Inspector General, as a constituent unit of the Treasury Department by 31 CFR 1.20.

(c) *Exemptions under 5 U.S.C. 552a(j)(2)*: (1) Under 5 U.S.C. 552a(j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Office of the Inspector General is authorized under Treasury Department Order No. 256 to initiate, organize, direct, and control investigations of any allegations of illegal acts, violations, and any other misconduct, concerning any official or employee of any Treasury Office or Bureau.

(2) To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the above named system of records, then the exemption under 5 U.S.C. 552a(k)(2) relating to investigatory material compiled for law enforcement purposes is claimed for this system.

(3) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

5 U.S.C. 552a(c)(3) and (4)
 5 U.S.C. 552a(d)(1), (2), (3), (4)
 5 U.S.C. 552a(e)(1)(2) and (3)
 5 U.S.C. 552a(e)(4)(G), (H), and (I)
 5 U.S.C. 552a(e)(5) and (8)
 5 U.S.C. 552a(f)
 5 U.S.C. 552a(g)

(d) *Exemptions under 5 U.S.C. 552a(k)(2)*: (1) Under 5 U.S.C. 552a(k)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled for law enforcement purposes.

(2) To the extent that information contained in the above named system has as its principal purpose the enforcement of criminal laws, the exemption for such information under 5 U.S.C. 552a(j)(2) is claimed.

(3) Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

5 U.S.C. 552a(c)(3)
 5 U.S.C. 552a(d)(1), (2), (3), and (4)
 5 U.S.C. 552a(e)(1)
 5 U.S.C. 552a(e)(4)(G), (H), and (I)
 5 U.S.C. 552a(f)

(e) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2)*: (1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(2) 5 U.S.C. 552a(c)(4), (d)(1), (2), (3), and (4), (e)(4)(G) and (H), (f) and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the agency procedures relating to access to records and the contest of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. This system is exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings; co-defendants of a right to a fair trial; constitute an unwarranted invasion of the personal privacy of others, disclose the identity of confidential sources and reveal confidential information supplied by these sources; and disclose investigative techniques and procedures.

§ 1.36

(3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

(A) Because it is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

(B) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

(C) In any investigation the Inspector General may obtain information concerning the violations of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

(D) In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the

31 CFR Subtitle A (7-1-00 Edition)

information may result in adverse determinations about an individual's rights, benefits, and privilege under Federal programs. The application of the provision would impair investigations of illegal acts, violations of the rules of conduct, merit system and any other misconduct for the following reasons:

(A) In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources.

(B) Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his activities.

(C) The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the subject. This would afford the individual the opportunity to conceal any criminal activities to avoid apprehension.

(D) In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

(6) 5 U.S.C. 552a(e)(3) requires that an agency must inform the subject of an investigation who is asked to supply information of:

(A) The authority under which the information is sought and whether disclosure of the information is mandatory or voluntary.

(B) The purposes for which the information is intended to be used.

(C) The routine uses which may be made of the information, and

(D) The effects on the subject, if any of not providing the requested information. The reasons for exempting this system of records from the foregoing provision are as follows:

(i) The disclosure to the subject of the investigation as stated in (B) above

would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(ii) If the subject were informed of the information required by this provision, it could seriously interfere with undercover activities by requiring disclosure of undercover agents identity and impairing their safety, as well as impairing the successful conclusion of the investigation.

(iii) Individuals may be contacted during preliminary information gathering in investigations authorized by Treasury Department Order No. 256 before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

(7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about an individual. Since the law defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed into a logical order which objectively proves or disproves criminal behavior on the part of the suspect. Material which may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

(8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The notice requirement of this provision could prematurely reveal an ongoing

criminal investigation to the subject of the investigation.

(f) *Exempt information included in another system.* Any information from a system of records for which an exemption is claimed under 5 U.S.C. 552a(j) or (k) which also is included in another system of records retains the same exempt status as in the system for which an exemption is claimed.

ASSISTANT SECRETARY FOR ADMINISTRATION

The Assistant Secretary for Administration exempts under section (k) of the Privacy Act of 1974, 5 U.S.C. 552a, the Department's Personnel Security Files and Personnel Security Files and Indices from sections (c)(3), (d), (e)(1), (e)(4)(G) through (e)(4)(I), and (f) of the Act. The records maintained in the exempt systems of records are of the type described in section (k)(5) of the Act:

investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Thus to the extent that the records in this system can be disclosed without revealing the identity of a confidential source, they are not within the scope of this exemption and are subject to all the requirements of the Privacy Act.

The sections of the Act from which this system of records are exempt are in general those providing for individual access to records. When such access would cause the identity of a confidential source to be revealed, it would impair the future ability of the Treasury Department to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information.

In addition, the systems are exempt from section (e)(1) which requires that the agency maintain in its records only such information about an individual

§ 1.36

as is relevant and necessary to accomplish a statutory or executively ordered purpose. The Director finds that to fulfill the requirements of section (e)(1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

If any investigations within the scope of section (k)(5) become involved with civil or criminal matters, exemptions from the Act could also be asserted under sections (k)(2) or (j)(2).

EXEMPTION OF FOREIGN ASSETS CONTROL ENFORCEMENT RECORDS FROM CERTAIN PROVISIONS OF THE PRIVACY ACT OF 1974 (PUB. L. 93-579, 5 U.S.C. 552A)

The new regulations promulgated by the Office of Foreign Assets Control (as amendments to its Foreign Assets Control Regulations; Transaction Control Regulations; Cuban Assets Control Regulations; and, Rhodesian Sanction Regulations) read as follows:

Pursuant to subsection (k)(2) of 5 U.S.C. 552a, the Privacy Act of 1974, the Enforcement Records of the Office of Foreign Assets Control are hereby exempted from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G-I), and (f) of 5 U.S.C. 552a, as materials which are compiled and maintained for the purpose of conducting and recording investigations of criminal violations of relevant statutes and regulations administered by the Office of Foreign Assets Control. These records contain, among other things, information and evidence which was furnished in confidence by individuals, corporations, partnerships and other entities, Federal, State and local agencies, and by foreign individuals, corporations, partnerships and other entities, and foreign government sources. If it should appear that the individual concerning whom a record is maintained has been or will be denied any right, privilege, or benefit to which he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, except for the maintenance of such material, such material shall be disclosed to such individual, except: (1) To the extent that disclosure would reveal the identity of a source who fur-

nished information to the government under an express promise that the identity of the source would be held in confidence; or (2) to the extent that disclosure would reveal the identity of a source who furnished information prior to the effective date of the Privacy Act (September 27, 1975) under an implied promise that the identity of the source would be held in confidence.

ASSISTANT SECRETARY (ENFORCEMENT)

FINANCIAL CRIMES ENFORCEMENT NETWORK

Notice of Exempt System

(a) *In general.* The Assistant Secretary of the Treasury for Enforcement exempts the system of records entitled "FinCEN Data Base" (Treasury/DO .200) from certain provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

(b) *Authority:* 5 U.S.C. 552a (j) and (k); 31 CFR 1.23(c).

(c) *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to 5 U.S.C. 552a(j)(2), the Assistant Secretary for Enforcement hereby exempts the FinCEN Data Base system of records, maintained by the Financial Crimes Enforcement Network ("FinCEN"), an office reporting to the Assistant Secretary for Enforcement, from the following provisions of the Privacy Act of 1974:

5 U.S.C. 552a(c) (3) and (4);
5 U.S.C. 552a(d) (1), (2), (3) and (4);
5 U.S.C. 552a (e) (1), (2) and (3);
5 U.S.C. 552a(e)(4) (G), (H) and (I);
5 U.S.C. 552a(e) (5) and (8);
5 U.S.C. 552a(f); and
5 U.S.C. 552a(g).

(d) *Specific exemptions under 5 U.S.C. 552a(k)(1).* To the extent that the system of records may contain information subject to the provisions of 5 U.S.C. 552(b)(1), regarding national defense and foreign policy information classified pursuant to Executive order, the Assistant Secretary for Enforcement hereby exempts the FinCEN Data Base system of records from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(1):

5 U.S.C. 552a(c)(3);
5 U.S.C. 552a(d) (1), (2), (3), and (4);
5 U.S.C. 552a(e)(1);

5 U.S.C. 552a(e)(4) (G), (H), and (I); and 5 U.S.C. 552a(f).

(e) *Specific exemptions under 5 U.S.C. 552a(k)(2).* To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the FinCEN Data Base, the Assistant Secretary for Enforcement hereby exempts the FinCEN Data Base system of records from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(2):

5 U.S.C. 552a(c)(3);

5 U.S.C. 552a(d) (1), (2), (3), and (4);

5 U.S.C. 552a(e)(1);

5 U.S.C. 552a(e)(4) (G), (H), and (I); and 5 U.S.C. 552a(f).

(f) *Reasons for exemptions under 5 U.S.C. 552a (j)(2) and (k)(2).* (1) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to inquire whether a system of records contains records pertaining to them. Application of these provisions to the FinCEN Data Base would allow individuals to learn whether they have been identified as suspects or subjects of investigation. As further described in the following paragraph, access to such knowledge would impair FinCEN's ability to carry out its mission, since individuals could (i) take steps to avoid detection, (ii) inform associates that an investigation is in progress, (iii) learn the nature of the investigation, (iv) learn whether they are only suspects or identified as law violators, (v) begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records, or (vi) destroy evidence needed to prove the violation.

(2) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f)(2), (3) and (5) grant individuals access to records pertaining to them. The application of these provisions to the FinCEN Data Base would compromise FinCEN's ability to provide useful tactical and strategic information to law enforcement agencies.

(i) Permitting access to records contained in the FinCEN Data Base would provide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension by (A) discovering the facts that would form the basis for their arrest, (B) enabling them to destroy or alter evidence of criminal conduct that would form the basis for their arrest, and (C) using

knowledge that criminal investigators had reason to believe that a crime was about to be committed, to delay the commission of the crime or commit it at a location that might not be under surveillance.

(ii) Permitting access to either ongoing or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning crimes to structure their operations so as to avoid detection or apprehension.

(iii) Permitting access to investigative files and records could, moreover, disclose the identity of confidential sources and informers and the nature of the information supplied and thereby endanger the physical safety of those sources by exposing them to possible reprisals for having provided the information. Confidential sources and informers might refuse to provide criminal investigators with valuable information unless they believed that their identities would not be revealed through disclosure of their names or the nature of the information they supplied. Loss of access to such sources would seriously impair FinCEN's ability to carry out its mandate.

(iv) Furthermore, providing access to records contained in the FinCEN Data Base could reveal the identities of undercover law enforcement officers who compiled information regarding the individual's criminal activities and thereby endanger the physical safety of those undercover officers or their families by exposing them to possible reprisals.

(v) By compromising the law enforcement value of the FinCEN Data Base for the reasons outlined in paragraphs (f)(2) through (iv) of this paragraph, permitting access in keeping with these provisions would discourage other law enforcement and regulatory agencies, foreign and domestic, from freely sharing information with FinCEN and thus would restrict FinCEN's access to information necessary to accomplish its mission most effectively.

(vi) Finally, the dissemination of certain information that FinCEN may maintain in the FinCEN Data Base is restricted by law.

(3) 5 U.S.C. 552a (d) (2), (3) and (4), (e)(4)(H), and (f)(4) permit an individual to request amendment of a record pertaining to him or her and require the agency either to amend the record, or to note the disputed portion of the record and to provide a copy of the individual's statement of disagreement with the agency's refusal to amend a record to persons or other agencies to whom the record is thereafter disclosed. Since these provisions depend on the individual's having access to his or her records, and since these rules propose to exempt the FinCEN Data Base from the provisions of 5 U.S.C. 552a relating to access to records, for the reasons set out in paragraph (f)(2) of this section, these provisions should not apply to the FinCEN Data Base.

(4) 5 U.S.C. 552(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute that the agency made in accordance with 5 U.S.C. 552a(d) to any record that the agency disclosed to the person or agency if an accounting of the disclosure was made. Since this provision depends on an individual's having access to and an opportunity to request amendment of records pertaining to him or her, and since these rules proposed to exempt the FinCEN Data Base from the provisions of 5 U.S.C. 552a relating to access to and amendment of records, for the reasons set out in paragraph (f)(3) of this section, this provision ought not apply to the FinCEN Data Base.

(5) 5 U.S.C. 552a(3) requires an agency to make accountings of disclosures of a record available to the individual named in the record upon his or her request. The accountings must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient.

(i) The application of this provision would impair the ability of law enforcement agencies outside the Department of the Treasury to make effective use of information provided by FinCEN. Making accountings of disclosures available to the subjects of an investigation would alter them to the fact that another agency is conducting an investigation into their criminal activities and could reveal the geographic location of the other agency's

investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would be able to take measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographical areas, or by destroying or concealing evidence that would form the basis for arrest.

(ii) Moreover, providing accountings to the subjects of investigations would alert them to the fact that FinCEN has information regarding their criminal activities and could inform them of the general nature of that information. Access to such information could reveal the operation of FinCEN's information-gathering and analysis systems and permit violators to take steps to avoid detection or apprehension.

(6) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. The application of this provision to the FinCEN Data Base could compromise FinCEN's ability to provide useful information to law enforcement agencies, since revealing sources for the information could (i) disclose investigative techniques and procedures, (ii) result in threats or reprisals against informers by the subjects of investigations, and (iii) cause informers to refuse to give full information to criminal investigators for fear of having their identities as sources disclosed.

(7) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain," as defined in 5 U.S.C. 552a(a)(3), includes "collect" and "disseminate." The application of this provision to the FinCEN Data Base could impair FinCEN's ability to collect and disseminate valuable law enforcement information.

(i) At the time that FinCEN collects information, it often lacks sufficient time to determine whether the information is relevant and necessary to accomplish a FinCEN purpose.

(ii) In many cases, especially in the early stages of investigation, it may be impossible immediately to determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary often may, upon further evaluation or upon collation with information developed subsequently, prove particularly relevant to a law enforcement program.

(iii) Not all violations of law discovered by FinCEN analysts fall within the investigative jurisdiction of the Department of the Treasury. To promote effective law enforcement, FinCEN will have to disclose such violations to other law enforcement agencies, including State, local and foreign agencies, that have jurisdiction over the offenses to which the information relates. Otherwise, FinCEN might be placed in the position of having to ignore information relating to violations of law not within the jurisdiction of the Department of the Treasury when that information comes to FinCEN's attention during the collation and analysis of information in its records.

(8) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of this provision to the FinCEN Data Base would impair FinCEN's ability to collate, analyze, and disseminate investigative, intelligence, and enforcement information.

(i) Most information collected about an individual under criminal investigation is obtained from third parties, such as witnesses and informants. It is usually not feasible to rely upon the subject of the investigation as a source for information regarding his criminal activities.

(ii) An attempt to obtain information from the subject of a criminal investigation will often alert that individual to the existence of an investigation, thereby affording the individual an opportunity to attempt to conceal his criminal activities so as to avoid apprehension.

(iii) In certain instances, the subject of a criminal investigation is not required to supply information to criminal investigators as a matter of legal duty.

(iv) During criminal investigations it is often a matter of sound investigative procedure to obtain information from a variety of sources to verify information already obtained.

(9) 5 U.S.C. 552a(e)(3) requires an agency to inform each individual whom it asks to supply information, on the form that it uses to collect the information or on a separate form that the individual can retain, of the agency's authority for soliciting the information; whether disclosure of information is voluntary or mandatory; the principal purposes for which the agency will use the information; the routine uses that may be made of the information; and the effects on the individual of not providing all or part of the information. The FinCEN Data Base should be exempted from this provision to avoid impairing FinCEN's ability to collect and collate investigative, intelligence, and enforcement data.

(i) Confidential sources or undercover law enforcement officers often obtain information under circumstances in which it is necessary to keep the true purpose of their actions secret so as not to let the subject of the investigation or his or her associates know that a criminal investigation is in progress.

(ii) If it became known that the undercover officer was assisting in a criminal investigation, that officer's physical safety could be endangered through reprisal, and that officer may not be able to continue working on the investigation.

(iii) Individuals often feel inhibited in talking to a person representing a criminal law enforcement agency but are willing to talk to a confidential source or undercover officer whom they believe not to be involved in law enforcement activities.

(iv) Providing a confidential source of information with written evidence that he or she was a source, as required by this provision, could increase the likelihood that the source of information would be subject to retaliation by the subject of the investigation.

(v) Finally, application of this provision could result in an unwarranted invasion of the personal privacy of the subject of the criminal investigation, particularly where further investigation reveals that the subject was not involved in any criminal activity.

(10) 5 U.S.C. 552a(e)(5) requires an agency to maintain all records it uses in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination.

(i) Since 5 U.S.C. 552a(a)(3) defines “maintain” to include “collect” and “disseminate,” application of this provision to the FinCEN Data Base would hinder the initial collection of any information that could not, at the moment of collection, be determined to be accurate, relevant, timely, and complete. Similarly, application of this provision would seriously restrict FinCEN’s ability to disseminate information pertaining to a possible violation of law to law enforcement and regulatory agencies. In collecting information during a criminal investigation, it is often impossible or unfeasible to determine accuracy, relevance, timeliness, or completeness prior to collection of the information. In disseminating information to law enforcement and regulatory agencies, it is often impossible to determine accuracy, relevance, timeliness, or completeness prior to dissemination, because FinCEN may not have the expertise with which to make such determinations.

(ii) Information that may initially appear inaccurate, irrelevant, untimely, or incomplete may, when collated and analyzed with other available information, become more pertinent as an investigation progresses. In addition, application of this provision could seriously impede criminal investigators and intelligence analysts in the exercise of their judgment in reporting results obtained during criminal investigations.

(11) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when the agency makes any record on the individual available to any person under

compulsory legal process, when such process becomes a matter of public record. The FinCEN Data Base should be exempted from this provision to avoid revealing investigative techniques and procedures outlined in those records and to prevent revelation of the existence of an ongoing investigation where there is need to keep the existence of the investigation secret.

(12) 5 U.S.C. 552a(g) provides for civil remedies to an individual when an agency wrongfully refuses to amend a record or to review a request for amendment, when an agency wrongfully refuses to grant access to a record, when an agency fails to maintain accurate, relevant, timely, and complete records which are used to make a determination adverse to the individual, and when an agency fails to comply with any other provision of 5 U.S.C. 552a so as to adversely affect the individual. The FinCEN Data Base should be exempted from this provision to the extent that the civil remedies may relate to provisions of 5 U.S.C. 552a from which these rules propose to exempt the FinCEN Data Base, since there should be no civil remedies for failure to comply with provisions from which FinCEN is exempted. Exemption from this provision will also protect FinCEN from baseless civil court actions that might hamper its ability to collate, analyze, and disseminate investigative, intelligence, and law enforcement data.

(g) *In general.* The Assistant Secretary (Enforcement) exempts the system of records entitled “Suspicious Activity Reporting System” (Treasury/DO .212) from certain provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

(h) *Authority.* 5 U.S.C. 552a(j) and (k); 31 CFR 1.23(c).

(i) *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to 5 U.S.C. 552a(j)(2), the Assistant Secretary (Enforcement) hereby exempts the Suspicious Activity Reporting System (SAR System) of records, maintained by FinCEN, an office reporting to the Assistant Secretary (Enforcement), from the following provisions of the Privacy Act of 1974:

5 U.S.C. 552a(c)(3) and (4);

5 U.S.C. 552a(d)(1), (2), (3), and (4);

Office of the Secretary of the Treasury

§ 1.36

5 U.S.C. 552a(e)(1), (2), and (3);
5 U.S.C. 552a(e)(4)(G), (H), and (I);
5 U.S.C. 552a(e)(5) and (8);
5 U.S.C. 552a(f); and
5 U.S.C. 552a(g).

(j) *Specific exemptions under 5 U.S.C. 552a(k)(2).* To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the SAR System of records, the Assistant Secretary (Enforcement) hereby exempts the SAR System of records from the following provisions of 5 U.S.C. 552a pursuant to 5 U.S.C. 552a(k)(2):

5 U.S.C. 552a(c)(3);
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H), and (I); and
5 U.S.C. 552a(f).

(k) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2).* (1) 5 U.S.C. 552a(e)(4)(G) and (f)(1) enable individuals to inquire whether a system of records contains records pertaining to them. Application of these provisions to the SAR System would allow individuals to learn whether they have been identified as suspects or possible subjects of investigation. Access by individuals to such knowledge would seriously hinder the law enforcement purposes that the SAR System is created to serve, because individuals involved in activities that are violations of law could:

- (i) Take steps to avoid detection;
- (ii) Inform associates that an investigation is in progress;
- (iii) Learn the nature of the investigation;
- (iv) Learn whether they are only suspects or identified as violators of law;
- (v) Begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records, or
- (vi) Destroy evidence needed to prove the violation.

(2) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (f)(3) and (f)(5) grant individuals access to records containing information about them. The application of these provisions to the SAR System would compromise the ability of the component agencies of the SAR System to use the information effectively for purposes of law enforcement.

- (i) Permitting access to records contained in the SAR System would pro-

vide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension, because they could;

- (A) Discover the facts that would form the basis of an arrest;

- (B) Destroy or alter evidence of criminal conduct that would form the basis of their arrest, and

- (C) Delay or change the commission of a crime that was about to be discovered by investigators.

(ii) Permitting access to either ongoing or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning crimes to structure their operations so as to avoid detection or apprehension.

(3) 5 U.S.C. 552a(d)(2), (d)(3) and (d)(4), (e)(4)(H) and (f)(4) permit an individual to request amendment of a record pertaining to him or her and require the agency either to amend the record or note the disputed portion of the record and, if the agency refuses to amend the record, to provide a copy of the individual's statement of disagreement with the agency's refusal, to persons or other agencies to whom the record is thereafter disclosed. Because these provisions depend on the individual's having access to his or her records, and since these rules exempt the SAR System from the provisions of 5 U.S.C. 552a relating to access to records, for the reasons set out in paragraph (k)(2), these provisions do not apply to the SAR System.

(4) 5 U.S.C. 552a(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute that the agency made in accordance with 5 U.S.C. 552a(d) to any record that the agency disclosed to the person or agency, if an accounting of the disclosure was made. Because this provision depends on an individual's having access to and an opportunity to request amendment of records pertaining to him or her, and because these rules exempt the SAR System from the provisions of 5 U.S.C. 552a relating to access to and amendment of records, for the reasons set forth in paragraphs (k)(2) and (3), this provision does not apply to the SAR System.

§ 1.36

31 CFR Subtitle A (7-1-00 Edition)

(5) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of any disclosures of records required by 5 U.S.C. 552a(c)(1) available to the individual named in the record upon his or her request. The accounting must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient.

(i) The application of this provision would impair the effective use of information collected in the SAR System. Making an accounting of disclosures available to the subjects of an investigation would alert them to the fact that another agency is conducting an investigation into their criminal activities and could reveal the geographic location of the other agency's investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would be able to take measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographical areas, or by destroying or concealing evidence that would form the basis for arrest.

(ii) Moreover, providing an accounting to the subjects of investigations would alert them to the fact that FinCEN has information regarding possible criminal activities and could inform them of the general nature of that information. Access to such information could reveal the operation of the information-gathering and analysis systems of FinCEN, the Federal Supervisory Agencies and other SAR System Users and permit violators to take steps to avoid detection or apprehension.

(6) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. The application of this provision to the SAR System could compromise FinCEN's and the Federal Supervisory Agencies' ability to provide useful information to law enforcement agencies, because revealing sources for the information could:

(i) Disclose investigative techniques and procedures,

(ii) Result in threats or reprisals against informers by the subjects of investigations, and

(iii) Cause informers to refuse to give full information to criminal investigators for fear of having their identities as sources disclosed.

(7) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The application of this provision to the SAR System could impair the effectiveness of law enforcement because in many cases, especially in the early stages of investigation, it may be impossible immediately to determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary, upon further evaluation or upon collation with information developed subsequently, often may prove helpful to an investigation.

(8) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of this provision to the SAR System would impair FinCEN's ability to collect, analyze and disseminate to System Users investigative or enforcement information. The SAR System is designed to house information about known or suspected criminal activities or suspicious transactions that has been collected and reported by financial institutions, or their examiners or other enforcement or supervisory officials. It is not feasible to rely upon the subject of an investigation to supply information. An attempt to obtain information from the subject of any investigation would alert that individual to the existence of an investigation, providing an opportunity to conceal criminal activity and avoid apprehension. Further, with respect to the initial SAR, 31 U.S.C. §5318(g)(2) specifically prohibits financial institutions making such reports from notifying any participant in the transaction that a report has been made.

Office of the Secretary of the Treasury

§ 1.36

(9) 5 U.S.C. 552a(e)(3) requires an agency to inform each individual whom it asks to supply information, on the form that it uses to collect the information or on a separate form that the individual can retain, the agency's authority for soliciting the information; whether disclosure of information is voluntary or mandatory; the principal purposes for which the agency will use the information; the routine uses that may be made of the information; and the effects on the individual of not providing all or part of the information. The application of these provisions to the SAR System would compromise the ability of the component agencies of the SAR System to use the information effectively for purposes of law enforcement.

(10) 5 U.S.C. 552a(e)(5) requires an agency to maintain all records it uses in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Application of this provision to the SAR System would hinder the collection and dissemination of information. Because Suspicious Activity Reports are filed by financial institutions with respect to known or suspected violations of law or suspicious activities, it is not possible at the time of collection for the agencies that use the SAR System to determine that the information in such records is accurate, relevant, timely and complete.

(11) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when the agency makes any record on the individual available to any person under compulsory legal process, when such process becomes a matter of public record. Application of these requirements to the SAR System would prematurely reveal the existence of an ongoing investigation to the subject of investigation where there is need to keep the existence of the investigation secret. It would render ineffective 31 U.S.C. § 5318(g)(2), which prohibits financial institutions and their officers, employees and agents from disclosing to any person involved in a transaction that a SAR has been filed.

(12) 5 U.S.C. 552a(g) provides an individual with civil remedies when an agency wrongfully refuses to amend a record or to review a request for amendment, when an agency wrongfully refuses to grant access to a record, when any determination relating to an individual is based on records that are not accurate, relevant, timely and complete, and when an agency fails to comply with any other provision of 5 U.S.C. 552a so as to adversely affect the individual. Because the SAR System is exempt from these provisions it follows that civil remedies for failure to comply with these provisions are not appropriate.

(l) *Exempt information included in another system.* Any information from a system of records for which an exemption is claimed under 5 U.S.C. 552a (j) or (k) which is also included in another system of records retains the same exempt status such information has in the system for which such exemption is claimed.

THE INTERNAL REVENUE SERVICE

NOTICE OF EXEMPT SYSTEMS

The Commissioner of Internal Revenue finds that the orderly and efficient administration of the internal revenue laws necessitates that certain systems of records maintained by the Internal Revenue Service be exempted from certain sections of the Privacy Act of 1974 (88 Stat. 1986).

(a) *Exemptions under 5 U.S.C. 552a (j) (2).* (1) This paragraph applies to the following systems of records maintained by the Internal Revenue Service, for which exemptions are claimed under 5 U.S.C. 552a(j) (2).

Name of system	No.
Case Management and Time Reporting System, Criminal Investigation Division	46.002
Confidential Informants, Criminal Investigation Division	46.003
Electronic Surveillance Files, Criminal Investigation Division	46.005
Centralized Evaluation and Processing of Information Items (CEPIIs), Criminal Investigation Division	46.009
Relocated Witnesses, Criminal Investigation Division	46.015
Secret Service Details, Criminal Investigation Division	46.016
Treasury Enforcement Communications System (TECS)	46.022
Automated Information Analysis System	46.050
Assault and Threat Investigation Files	60.001

§ 1.36

Name of system	No.
Bribery Investigation Files	60.002
Disclosure Investigation Files	60.004
Internal Security Management Information System (ISMIS)	60.011
Chief Counsel Criminal Tax Case Files	90.001

(2) Under 5 U.S.C. 552a(j)(2), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the agency or component thereof that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. Certain components of the Internal Revenue Service have as their principal function activities pertaining to the enforcement of criminal laws.

(3) To the extent the exemption under 5 U.S.C. 552a(j)(2) does not apply to any of the above-named systems, then exemptions under 5 U.S.C. 552a(k)(2), relating to investigatory material compiled for law enforcement purposes, are hereby claimed for such systems.

(4) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

- 5 U.S.C. 552a(c) (3) and (4)
- 5 U.S.C. 552a(d) (1), (2), (3), and (4)
- 5 U.S.C. 552a(e) (1), (2), and (3)
- 5 U.S.C. 552a(e) (4) (G), (H), and (I)
- 5 U.S.C. 552a(e) (5) and (8)
- 5 U.S.C. 552a(f)
- 5 U.S.C. 552a(g)

(5) See paragraph (c) for reasons for the exemptions.

(b) *Exemptions under 5 U.S.C. 552a(k)(2).* (1) This paragraph applies to the following systems of records maintained by the Internal Revenue Service, for which exemptions are claimed under 5 U.S.C. 552a(k)(2):

Name of system	No.
Wage and Information Returns Processing (IRP)	22.061
Acquired Property Records	26.001
Form 2209, Courtesy Investigations	26.006
IRS and Treasury Employee Delinquency	26.008
Litigation Case Files	26.011
Offer in Compromise (OIC) Files	26.012
One-hundred Per Cent Penalty Cases	26.013
Returns Compliance Programs (RCP)	26.016
TDA (Taxpayer Delinquent Accounts)	26.019
TDI (Taxpayer Delinquency Investigations) Files	26.020
Transferee Files	26.021
Delinquency Prevention Programs	26.022
Audit Trail Lead Analysis System	34.020

31 CFR Subtitle A (7-1-00 Edition)

Name of system	No.
Applicant Appeal Files	37.002
Closed Files containing Derogatory Information about Individuals' practice before the IRS and Files of attorneys and certified public accountants formerly enrolled to Practice	37.003
Derogatory Information (No Action)	37.004
Present Suspensions and Disbarments Resulting from Administrative Proceeding	37.005
Inventory	37.007
Resigned Enrolled Agents (action pursuant to 31 CFR Section 10.55(b))	37.009
Present Suspensions from Practice Before the Internal Revenue Service	37.011
Examination Administrative File	42.001
Audit Information Management System (AIMS)	42.008
Classification and Examination Selection Files	42.016
Compliance Programs and Projects Files	42.021
International Enforcement Program Files	42.017
Combined Case Control Files	42.012
Audit Underreporter Case Files	42.029
Discriminant Function File (DIF)	42.030
Appeals Case Files	44.001
Automated Information Analysis System	46.050
Disclosure Records	48.001
Collateral and Information Requests System	49.001
Component Authority and Index Card Microfilm Retrieval System	49.002
Overseas Compliance Projects System	49.007
Conduct Investigation Files	60.003
Enrollee Charge Investigation Files	60.006
Miscellaneous Information File	60.007
Special Inquiry Investigation Files	60.009
Chief Counsel Disclosure Litigation Division Case Files	90.002
Chief Counsel General Legal Services Case Files ...	90.004
Chief Counsel General Litigation Case Files	90.005
Chief Counsel Tax Litigation Case Files	90.009
File Digest Room Files containing briefs, Legal opinions, Digests of Documents generated internally or by the Department of Justice relating to the Administration of the Revenue Laws	90.010
Legal Case Files of the Chief Counsel, Deputy Chief Counsel, Associate Chief Counsels (Litigation) and (Technical)	90.013
Reports and Information Retrieval Activity Computer and Microfilm Records	90.016
Correspondence File—Inquiries about Enforcement Activities	00.002

(2) Under 5 U.S.C. 552a (k)(2), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled for law enforcement purposes. To the extent that information contained in the above-named systems has as its principal purpose the enforcement of criminal laws, exemption for such information under 5 U.S.C. 552a (j)(2) is hereby claimed.

(3) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

- 5 U.S.C. 552a(c)(3)
- 5 U.S.C. 552a(d) (1), (2), (3), and (4)

Office of the Secretary of the Treasury

§ 1.36

5 U.S.C. 552a (e)(1)

5 U.S.C. 552a(e)(4) (G), (H), and (I)

5 U.S.C. 552a(f)

(4) See paragraph (c) for reasons for the exemptions.

(c) *Reasons for exemptions.* The following are the reasons for exempting systems of records maintained by the Internal Revenue Service pursuant to 5 U.S.C. 552a (j)(2) and (k)(2) of the Privacy Act of 1974.

(1) 5 U.S.C. 552a(c)(3). This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c) (1) and (2) to the individual named in the record at his request. The reasons for exempting systems of records from the foregoing provision are as follows:

(i) The release of disclosure accounting would put the subject of an investigation on notice of the existence of an investigation and that such person is the subject of that investigation;

(ii) Such release would provide the subject of an investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure is made. The release of such information to the subject of an investigation would provide the subject with significant information concerning the nature of the investigation and could result in the altering or destruction of documentary evidence, the improper influencing of witnesses, and other activities that could impede or compromise the investigation. In the case of a delinquent account, such release might enable the subject of the investigation to dissipate assets before levy;

(iii) Release to the individual of the disclosure accounting would alert the individual as to which agencies were investigating this person and the scope of the investigation, and could aid the individual in impeding or compromising investigations by those agencies.

(2) 5 U.S.C. 552a (c)(4), (d)(1), (2), (3), and (4), (e)(4) (G) and (H), (f), and (g). These provisions of the Privacy Act relate to an individual's right to notification of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the

agency procedures relating to access to records and the contest of the information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. The reasons for exempting systems of records from the foregoing provisions are as follows: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings; deprive co-defendants of a right to a fair trial or an impartial adjudication; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by such sources; and disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. In cases where an exemption from this provision has been claimed, the reasons are as follows:

(i) Revealing categories of sources of information could disclose investigative techniques and procedures;

(ii) Revealing categories of sources of information could cause sources who supply information to investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality.

(4) 5 U.S.C. 552a(e)(1). This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The reasons for exempting systems of records from the foregoing provision are as follows:

(i) The Internal Revenue Service will limit its inquiries to information which is necessary for the enforcement and administration of tax laws. However, an exemption from the foregoing provision is needed because, particularly in the early stages of a tax audit

§ 1.36

or other investigation, it is not possible to determine the relevance or necessity of specific information.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may subsequently be determined to be irrelevant or unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established with certainty.

(iii) When information is received by the Internal Revenue Service relating to violations of law within the jurisdiction of other agencies, the Service processes this information through Service systems in order to forward the material to the appropriate agencies.

(5) 5 U.S.C. 552a(e)(2). This provision of the Privacy Act requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The reasons for exempting systems of records from the foregoing provisions are as follows:

(i) In certain instances the subject of a criminal investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's criminal activities must be obtained from other sources;

(ii) In a criminal investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to accumulate and verify the evidence necessary for the successful prosecution of persons suspected of violating the criminal laws.

(6) 5 U.S.C. 552a(e)(3). This provision of the Privacy Act requires that an agency must inform the subject of an investigation who is asked to supply information of (A) the authority under which the information is sought and whether disclosure of the information is mandatory or voluntary, (B) the purposes for which the information is intended to be used, (C) the routine uses which may be made of the information, and (D) the effects on the subject, if any, of not providing the requested information. The reasons for exempting

31 CFR Subtitle A (7-1-00 Edition)

systems of records from the foregoing provision are as follows:

(i) The disclosure to the subject of an investigation of the purposes for which the requested information is intended to be used would provide the subject with significant information concerning the nature of the investigation and could result in impeding or compromising the investigation.

(ii) Informing the subject of an investigation of the matters required by this provision could seriously undermine the actions of undercover officers, requiring them to disclose their identity and impairing their safety, as well as impairing the successful conclusion of the investigation.

(iii) Individuals may be contacted during preliminary information gathering, surveys, or compliance projects concerning the administration of the internal revenue laws before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would impede or compromise subsequent investigations.

(7) 5 U.S.C. 552a(e)(5). This provision of the Privacy Act requires an agency to maintain all records which are used in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. The reasons for exempting systems of records from the foregoing provision are as follows: Since the law defines "maintain" to include the collection of information, compliance with the foregoing provision would prohibit the initial collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of a criminal investigation, it is not feasible or possible to determine completeness, accuracy, timeliness, or relevancy prior to collection of the information. Facts are first gathered and then placed into a cohesive order which objectively proves or disproves criminal behavior on the part of a suspect. Seemingly nonrelevant, untimely, or incomplete information

when gathered may acquire new significance as an investigation progresses. The restrictions of the foregoing provision could impede investigators in the preparation of a complete investigative report.

(8) 5 U.S.C. 552a(e)(8). This provision of the Privacy Act requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The reasons for exempting systems of records from the foregoing provision are as follows: The notice requirement of the foregoing provision could prematurely reveal the existence of criminal investigations to individuals who are the subject of such investigations.

(d) *Exemption under 5 U.S.C. 552a(k)(4)*. (1) This paragraph applies to the following system of records maintained by the Internal Revenue Service, for which exemption is claimed under 5 U.S.C. 552a(k)(4): Statistics of Income—Individual Tax Returns 70.001.

(2) Under 5 U.S.C. 552a(k)(4), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is required by statute to be maintained and used solely as statistical records.

(3) The above-named system is maintained under section 6108 of the Internal Revenue Code, which provides that “the Secretary or his delegate shall prepare and publish annually statistics reasonably available with respect to the operation of the income tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable”.

(4) The reason for exempting the above-named system of records is that disclosure of statistical records (including release of accounting for disclosures) would in most instances be of no benefit to a particular individual since the records do not have a direct effect on a given individual.

(5) The provisions of the Privacy Act of 1974 from which exemption is claimed under 5 U.S.C. 552a(k)(4) are as follows:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d) (1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4) (G), (H), and (I)
5 U.S.C. 552a(f)

(e) *Exemptions under 5 U.S.C. 552a(k)(5)*. (1) This paragraph applies to the following systems of records maintained by the Internal Revenue Service, for which exemptions are claimed under 5 U.S.C. 552a(k)(5):

Name of system	No.
Recruiting, Examining and Placement Records	36.008
Security, Background, and Character Investigations Files	60.008
Chief Counsel General Administrative Systems	90.003
Employee Recruiting Files Maintained by the Operations Division	90.011
Management Files Maintained by Operations Division and the Deputy Chief Counsel other than the Office of Personnel Management's Official Personnel Files	90.014

(2) Under 5 U.S.C. 552a(k)(5), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled solely for the purpose of determining suitability, eligibility, and qualifications for Federal civilian employment or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Thus, to the extent that records in the above-named systems can be disclosed without revealing the identity of a confidential source, they are not within the scope of this exemption and are subject to all the requirements of the Privacy Act.

(3) The provisions of the Act from which exemptions are claimed for the above-named systems of records are in general those providing for individual access to records. When such access would cause the identity of a confidential source to be revealed, it would impair the future ability of the Service to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal

§ 1.36

civilian employment, Federal contracts, or access to classified information. In addition, the systems are to be exempt from 5 U.S.C. 552a(e)(1), which requires that the agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a statutory or executive ordered purpose. The Service finds that to fulfill the requirements of 5 U.S.C. 552a(e)(1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

(4) If any investigatory material contained in the above-named systems becomes involved in criminal or civil matters, exemptions of such material under 5 U.S.C. 552a (j)(2) or (k)(2) is hereby claimed.

(5) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(5) are as follows:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a (d) (1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4) (G), (H), and (I)
5 U.S.C. 552a (f)

(f) *Exemption under 5 U.S.C. 552a(k)(6).*

(1) This paragraph applies to the following system of records maintained by the Internal Revenue Service, for which exemption is claimed under 5 U.S.C. 552a(k)(6): Recruiting, Examining and Placement Records 36.008

(2) Under 5 U.S.C. 552a(k)(6), the head of any agency may promulgate rules to exempt any system of records that is testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(3) The reason for exempting the above-named system is that disclosure of the material in the system would compromise the objectivity or fairness of the examination process.

(4) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(6) are as follows:

31 CFR Subtitle A (7-1-00 Edition)

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4) (G), (H), and (I)
5 U.S.C. 552a (f)

(g) *Exempt information included in another system.* Any information from a system of records for which an exemption is claimed under 5 U.S.C. 552a (j) or (k) which also is included in another system of records retains the same exempt status such information has in the system for which such exemption is claimed.

UNITED STATES CUSTOMS SERVICE

NOTICE OF EXEMPT SYSTEMS

In accordance with 5 U.S.C. 552a (j) and (k), general notice is hereby given of rulemaking pursuant to the Privacy Act of 1974 by the Commissioner, United States Customs Service, under authority delegated to him by the Secretary of the Treasury. The Commissioner, United States Customs Service, exempts the systems of records identified in the paragraphs below from certain provisions of the Privacy Act of 1974 as set forth in such paragraphs.

a. *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to the provisions of 5 U.S.C. 552a(j)(2), the Commissioner, United States Customs Service, hereby exempts certain systems of records, maintained by the United States Customs Service, from the provisions of 5 U.S.C. 552a(c) (3) and (4), (d) (1), (2), (3) and (4), (e)(1), (2), (3), (4)(G), (H) and (I), (5) and (8), (f) and (g).

1. *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(j)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph a. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the FEDERAL REGISTER:

00.285—Automated Index to Central Enforcement Files
00.270—Background—Record File of Non-Customs Employees
00.067—Bank Secrecy Act Reports File
00.037—Cargo Security Record System
00.053—Confidential Source Identification File
00.287—Customs Automated Licensing Information System (CALIS) [Proposed]
00.127—Internal Security Records System
00.129—Investigations Record System

Office of the Secretary of the Treasury

§ 1.36

00.171—Pacific Basin Reporting Network

00.213—Seized Asset and Case Tracking System (SEACATS)

00.244—Treasury Enforcement Communications System (TECS)

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The Customs Service believes that application of these provisions to the above-listed systems of records would give individuals an opportunity to learn whether they are of record either as suspects or as subjects of a criminal investigation; this would compromise the ability of the Customs Service to complete investigations and to detect and apprehend violators of the Customs and related laws in that individuals would thus be able (1) to take steps to avoid detection, (2) to inform co-conspirators of the fact that an investigation is being conducted, (3) to learn the nature of the investigation to which they are being subjected, (4) to learn the type of surveillance being utilized, (5) to learn whether they are only suspects or identified law violators, (6) to continue or resume their illegal conduct without fear of detection upon learning that they are not in a particular system of records, and (7) to destroy evidence needed to prove the violation.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f) (2), (3) and (5) enable individuals to gain access to records pertaining to them. The Customs Service believes that application of these provisions to the above-listed systems of records would compromise its ability to complete or continue criminal investigations and to detect and apprehend violators of the Customs and related criminal laws. Permitting access to records contained in the above-listed systems of records would provide individuals with significant information concerning the nature of the investigation, and this could enable them to avoid detection or apprehension in the following ways: (1) By discovering the collection of facts which would form the basis for their arrest, (2) by enabling them to destroy contraband or other evidence of criminal conduct which would form the basis for their arrest and, (3) by learning that the

criminal investigators had reason to believe that a crime was about to be committed, they could delay the commission of the crime or change the scene of the crime to a location which might not be under surveillance. Granting access to on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning criminal activity to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing law enforcement officer's established investigative tools and procedures. Further, granting access to investigative files and records could disclose the identity of confidential sources and other informers and the nature of the information which they supplied, thereby endangering the life or physical safety of those sources of information by exposing them to possible reprisals for having provided information relating to the criminal activities of those individuals who are the subjects of the investigative files and records; confidential sources and other informers might refuse to provide criminal investigators with valuable information if they could not be secure in the knowledge that their identities would not be revealed through disclosure of either their names or the nature of the information they supplied, and this would seriously impair the ability of the Customs Service to carry out its mandate to enforce the Customs criminal and related laws. Additionally, providing access to records contained in the above-listed systems of records could reveal the identities of undercover law enforcement officers who compiled information regarding individual's criminal activities, thereby endangering the life or physical safety of those undercover officers or their families by exposing them to possible reprisals.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in paragraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's

statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The Customs Service believes that the reasons set forth in paragraph (b) above are equally applicable to this subparagraph and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. The Customs Service believes that application of this provision to the above-listed systems of records would impair the ability of other law enforcement agencies to make effective use of information provided by the Customs Service in connection with the investigation, detection and apprehension of violators of the criminal laws enforced by those other law enforcement agencies. Making accountings of disclosure available to violators would alert those individuals to the fact that another agency is conducting an investigation into their criminal activities, and this could reveal the geographic location of the other agency's investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographical areas or by destroying or concealing evidence which would form the basis for their arrest. In addition, providing violators with accountings of disclosure would alert those individuals to the fact that the Customs Service has information regarding their criminal activities and could inform those individuals of the general nature of that information; this, in turn, would afford those individuals a better opportunity to take appropriate steps to avoid detection or apprehension for violations of the Customs and related criminal laws.

(e) 5 U.S.C. 552a(c)(4) requires that an agency inform any person or other

agency about any correction or notation of dispute made by the agency in accordance with 5 U.S.C. 552a(d) of any record that has been disclosed to the person or agency if an accounting of the disclosure was made. Since this provision is dependent on an individual's having been provided an opportunity to contest (seek amendment to) records pertaining to him, and since the above-listed systems of records are proposed to be exempted from those provisions of 5 U.S.C. 552a relating to amendments of records as indicated in paragraph (c) above, the Customs Service believes that this provision should not be applicable to the above-listed systems of records.

(f) 5 U.S.C. 552a(e)(4)(I) requires that an agency publish a public notice listing the categories of sources for information contained in a system of records. The Customs Service believes that application of this provision to the above-listed systems of records could compromise its ability to conduct investigations and to identify, detect and apprehend violators of the Customs and related criminal laws for the reasons that revealing sources for information could 1) disclose investigative techniques and procedures, 2) result in threatened or actual reprisal directed to informers by the subject under investigation, and 3) result in the refusal of informers to give information or to be candid with criminal investigators because of the knowledge that their identities as sources might be disclosed.

(g) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3) includes "collect" and "disseminate." At the time that information is collected by the Customs Service, there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the Customs Service; in many cases information collected may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early

stages of investigation, and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation, prove to have particular relevance to an enforcement program of the Customs Service. Further, not all violations of law discovered during a Customs Service criminal investigation fall within the investigative jurisdiction of the Customs Service; in order to promote effective law enforcement, it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The Customs Service should not be placed in a position of having to ignore information relating to violations of law not within its jurisdiction where that information comes to the attention of the Customs Service through the conduct of a lawful Customs Service investigation. The Customs Service therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(1).

(h) 5 U.S.C. 552a(e)(2) requires that an agency collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The Customs Service believes that application of this provision to the above-listed systems of records would impair the ability of the Customs Service to conduct investigations and to identify, detect and apprehend violators of the Customs and related criminal laws for the following reasons: (1) most information collected about an individual under criminal investigation is obtained from third parties such as witnesses and informers, and it is usually not feasible to rely upon the subject of the investigation as a source for information regarding his criminal activities, (2) an attempt to obtain information from the subject of a criminal investigation will often alert that individual to the existence of an investigation, thereby affording the individual an opportunity to attempt to conceal his criminal activities so as

to avoid apprehension, (3) in certain instances the subject of a criminal investigation is not required to supply information to criminal investigators as a matter of legal duty, and (4) during criminal investigations it is often a matter of sound investigative procedure to obtain information from a variety of sources in order to verify information already obtained.

(i) 5 U.S.C. 552a(e)(3) requires that an agency inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual; the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary; the principal purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effects on the individual of not providing all or part of the requested information. The Customs Service believes that the above-listed systems of records should be exempted from this provision in order to avoid adverse effects on its ability to identify, detect and apprehend violators of the Customs and related criminal laws. In many cases information is obtained by confidential sources or other informers or by undercover law enforcement officers under circumstances where it is necessary that the true purpose of their actions be kept secret so as to not let it be known by the subject of the investigation or his associates that a criminal investigation is in progress. Further, if it became known that the undercover officer was assisting in a criminal investigation, that officer's life or physical safety could be endangered through reprisal, and, further, under such circumstances it may not be possible to continue to utilize that officer in the investigation. In many cases individuals for personal reasons would feel inhibited in talking to a person representing a criminal law enforcement agency but would be willing to talk to a confidential source or undercover officer who they believed was not involved in law enforcement activities. In addition, providing a source of information with written evidence that he was a source, as required by this

§ 1.36

provision, could increase the likelihood that the source of information would be the subject of retaliatory action by the subject of the investigation. Further, application of this provision could result in an unwarranted invasion of the personal privacy of the subject of the criminal investigation, particularly where further investigation would result in a finding that the subject was not involved in any criminal activity.

(j) 5 U.S.C. 552a(e)(5) requires that an agency maintain all records used by the agency in making any determination about any individual with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual in the determination. Since 5 U.S.C. 552a(a)(3) defines "maintain" to include "collect" and "disseminate," application of this provision to the above-listed systems of records would hinder the initial collection of any information which could not, at the moment of collection, be determined to be accurate, relevant, timely and complete. Similarly, application of this provision would seriously restrict the necessary flow of information from the Customs Service to other law enforcement agencies where a Customs Service investigation revealed information pertaining to a violation of law which was under the investigative jurisdiction of another agency. In collecting information during the course of a criminal investigation, it is not possible or feasible to determine accuracy, relevance, timeliness or completeness prior to collection of the information; in disseminating information to other law enforcement agencies it is often not possible to determine accuracy, relevance, timeliness or completeness prior to dissemination because the disseminating agency may not have the expertise with which to make such determinations. Further, information which may initially appear to be inaccurate, irrelevant, untimely or incomplete may, when gathered, grouped, and evaluated with other available information, become more pertinent as an investigation progresses. In addition, application of this provision could seriously impede criminal investigators and intelligence analysts in the

31 CFR Subtitle A (7-1-00 Edition)

exercise of their judgment in reporting on results obtained during criminal investigations. The Customs Service therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(5).

(k) 5 U.S.C. 552a(e)(8) requires that an agency make reasonable efforts to serve notice on an individual when any record on the individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The Customs Service believes that the above-listed systems of records should be exempt from this provision in order to avoid revealing investigative techniques and procedures outlined in those records and in order to prevent revelation of the existence of an on-going investigation where there is a need to keep the existence of the investigation secret.

(l) 5 U.S.C. 552a(g) provides civil remedies to an individual for an agency refusal to amend a record or to make a review of a request for amendment, for an agency refusal to grant access to a record, for an agency failure to maintain accurate, relevant, timely and complete records which are used to make a determination which is adverse to the individual, and for an agency failure to comply with any other provision of 5 U.S.C. 552a in such a way as to have an adverse effect on an individual. The Customs Service believes that the above-listed systems of records should be exempted from this provision to the extent that the civil remedies provided therein may relate to provisions of 5 U.S.C. 552a from which the above-listed systems of records are proposed to be exempt. Since the provisions of 5 U.S.C. 552a enumerated in paragraphs (a) through (k) above are proposed to be inapplicable to the above-listed systems of records for the reasons stated therein, there should be no corresponding civil remedies for failure to comply with the requirements of those provisions to which the exemption is proposed to apply. Further, the Customs Service believes that application of this provision to the above-listed systems of records would adversely affect its ability to conduct criminal investigations by exposing to civil court

Office of the Secretary of the Treasury

§ 1.36

action every stage of the criminal investigative process in which information is compiled or used in order to identify, detect, apprehend and otherwise investigate persons suspected or known to be engaged in criminal conduct in violation of the Customs and related laws.

b. *Specific exemptions under 5 U.S.C. 552a(k) (2).* Pursuant to the provisions of 5 U.S.C. 552a(k)(2), the Commissioner, United States Customs Service, hereby exempts certain systems of records, maintained by the United States Customs Service, from the provisions of 5 U.S.C. 552a(c)(3), (d) (1), (2), (3) and (4), (e) (1) and (4) (G), (H) and (I) and (f).

1. *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(k)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph b. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the FEDERAL REGISTER:

00.014—Advice Requests (Legal) (Pacific Region)
00.021—Arrest/Seizure/Search Report and Notice of Penalty File
00.022—Attorney Case File
00.285—Automated Index to Central Enforcement Files
00.270—Background—Record File of Non-Customs Employees
00.067—Bank Secrecy Act Reports File
00.037—Cargo Security File
00.271—Cargo Security Record System
00.041—Cartmen or Lightermen
00.043—Case Files (Regional Counsel—South Central Region)
00.046—Claims Case File
00.053—Confidential Source Identification File
00.057—Container Station Operator Files
00.058—Cooperating Individual Files
00.061—Court Case File
00.069—Customhouse Brokers File (Chief Counsel)
00.287—Customs Automated Licensing Information System (CALIS)
00.077—Disciplinary Action and Resulting Grievances or Appeal Case Files
00.078—Disclosure of Information File
00.098—Fines, Penalties, and Forfeitures Records
00.099—Fines, Penalties, and Forfeiture Files (Supplemental Petitions)
00.100—Fines, Penalties, and Forfeiture Records (Headquarters)
00.122—Information Received File
00.125—Intelligence Log
00.127—Internal Security Records System

00.129—Investigations Record System
00.133—Justice Department Case File
00.138—Litigation Issue Files
00.140—Lookout Notice
00.155—Narcotics Suspect File
00.159—Notification of Personnel Management Division when an employee is placed under investigation by the Office of Internal Affairs.
00.171—Pacific Basin Reporting Network
00.182—Penalty Case File
00.186—Personal Search
00.190—Personal Case File
00.197—Private Aircraft/Vessel Inspection Reporting System
00.206—Regulatory Audits of Customhouse Brokers
00.212—Search/Arrest/Seizure Report
00.13—Seized Asset and Case Tracking System (SEACATS)
00.214—Seizure File
00.224—Suspect Persons Index
00.232—Tort Claims Act File
00.244—Treasury Enforcement Communications System (TECS)
00.258—Violator's Case Files
00.260—Warehouse Proprietor Files

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The Customs Service believes that application of these provisions (to those of the above-listed systems of records for which no notification procedures have been provided in the general notice of the existence and character of systems of records which appears elsewhere in the FEDERAL REGISTER) would impair the ability of the Customs Service to successfully complete investigations and inquires of suspected violators of civil and criminal laws and regulations under its jurisdiction. In many cases investigations and inquiries into violations of civil and criminal laws and regulations involve complex and continuing patterns of behavior. Individuals, if informed that they have been identified as suspected violators of civil or criminal laws and regulations, would have an opportunity to take measures to prevent detection of illegal action so as to avoid prosecution or the imposition of civil sanctions. They would also be able to learn the nature and location of the investigation or inquiry and the type of surveillance being utilized, and they would be able to transmit this knowledge to co-conspirators. Finally, violators might be given the opportunity to destroy evidence needed to prove the

§ 1.36

violation under investigation or inquiry.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f) (2), (3) and (5) enable individuals to gain access to records pertaining to them. The Customs Service believes that application of these provisions to the above-listed systems of records would impair its ability to complete or continue civil or criminal investigations and inquiries and to detect and apprehend violators of the Customs and related laws. Permitting access to records contained in the above-listed systems of records would provide violators with significant information concerning the nature of the civil or criminal investigation or inquiry. Knowledge of the facts developed during an investigation or inquiry would enable violators of criminal and civil laws and regulations to learn the extent to which the investigation or inquiry has progressed, and this could provide them with an opportunity to destroy evidence that would form the basis for prosecution or the imposition of civil sanctions. In addition, knowledge gained through access to investigatory material could alert a violator to the need to temporarily postpone commission of the violation or to change the intended point where the violation is to be committed so as to avoid detection or apprehension. Further, access to investigatory material would disclose investigative techniques and procedures which, if known, could enable violators to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing investigators' established and effective investigative tools and procedures. In addition, investigatory material may contain the identity of a confidential source of information or other informer who would not want his identity to be disclosed for reasons of personal privacy or for fear of reprisal at the hands of the individual about whom he supplied information. In some cases mere disclosure of the information provided by an informer would reveal the identity of the informer either through the process of elimination or by virtue of the nature of the information supplied. If informers cannot be assured that their identities (as sources for information) will remain

31 CFR Subtitle A (7-1-00 Edition)

confidential, they would be very reluctant in the future to provide information pertaining to violations of criminal and civil laws and regulations, and this would seriously compromise the ability of the Customs Service to carry out its mission. Further, application of 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f) (2), (3) and (5) to the above-listed systems of records would make available attorney's work product and other documents which contain evaluations, recommendations, and discussions of ongoing civil and criminal legal proceedings; the availability of such documents could have a chilling effect on the free flow of information and ideas within the Customs Service which is vital to the agency's predecisional deliberative process, could seriously prejudice the agency's or the Government's position in a civil or criminal litigation, and could result in the disclosure of investigatory material which should not be disclosed for the reasons stated above. It is the belief of the Customs Service that, in both civil actions and criminal prosecutions, due process will assure that individuals have a reasonable opportunity to learn of the existence of, and to challenge, investigatory records and related materials which are to be used in legal proceedings.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in subparagraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The Customs Service believes that the reasons set forth in subparagraph (b) above are equally applicable to this subparagraph, and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the

date, nature and purpose of each disclosure of a record and the name and address of the recipient. The Customs Service believes that application of this provision to the above-listed systems of records would impair the ability of the Customs Service and other law enforcement agencies to conduct investigations and inquiries into civil and criminal violations under their respective jurisdictions. Making accountings available to violators would alert those individuals to the fact that the Customs Service or another law enforcement authority is conducting an investigation or inquiry into their activities, and such accountings could reveal the geographic location of the investigation or inquiry, the nature and purpose of the investigation or inquiry and the nature of the information disclosed, and the dates on which that investigation or inquiry was active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, transferring their activities to other locations or destroying or concealing evidence which would form the basis for prosecution or the imposition of civil sanctions.

(e) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3) includes "collect" and "disseminate." At the time that information is collected by the Customs Service there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the Customs Service; in many cases information collected may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early stages of investigation or inquiry, and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation or inquiry, prove to have particular relevance to an enforcement program of the Customs Service. Fur-

ther, not all violations of law uncovered during a Customs Service investigation or inquiry fall within the civil or criminal jurisdiction of the Customs Service; in order to promote effective law enforcement it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The Customs Service should not be placed in a position of having to ignore information relating to violations of law not within its jurisdiction where that information comes to the attention of the Customs Service through the conduct of a lawful Customs Service civil or criminal investigation or inquiry. The Customs Service therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(1).

c. *Specific exemptions under 5 U.S.C. 552a(k)(5).* Pursuant to the provisions of 5 U.S.C. 552a(k)(5), the Commissioner, United States Customs Service, hereby exempts the *Internal Security Records System* from the provisions of 5 U.S.C. 552a (c)(3), (d) (1), (2), (3) and (4), (e) (1) and (4) (G), (H) and (I) and (f). The records maintained in the exempt system of records are of the type described in 5 U.S.C. 552a(k)(5): "investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence."

Thus to the extent that the records in this system can be disclosed without revealing the identity of a confidential source, they are not within the scope of this exemption and are subject to all the requirements of 5 U.S.C. 552a, except where those records contain other information which is exempt under the

§ 1.36

provisions of 5 U.S.C. 552a(k)(2) for the reasons stated under paragraph b. above.

The sections of 5 U.S.C. 552a from which this system of records is exempt include in general those providing for individuals' access to or amendment of records. When such access or amendment would cause the identity of a confidential source to be revealed, it would impair the future ability of the Customs Service to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information.

In addition, the systems shall be exempt from 5 U.S.C. 552a(e)(1) which requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The Customs Service believes that to fulfill the requirements of 5 U.S.C. 552a(e)(1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

If any investigations within the scope of 5 U.S.C. 552a(k)(5) become involved with civil or criminal matters, exemptions from 5 U.S.C. 552a could also be asserted under 5 U.S.C. 552a (k)(2) or (j)(2).

UNITED STATES SECRET SERVICE

Notice of rules exempting certain systems from requirements of the Privacy Act

(a) *In general.* The Director of the U.S. Secret Service hereby issues rules exempting the Criminal Investigation Information System of records, the Non-Criminal Investigation Information System of records, and the Protection Information System of records from the provisions of certain subsections of 5 U.S.C. 552a, the Privacy Act of 1974. The purpose of the exemptions is to maintain the confidentiality of information compiled for the purpose of criminal, non-criminal, and protective investigations.

31 CFR Subtitle A (7-1-00 Edition)

(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552a (j) and (k) and pursuant to the authority vested in the Director, U.S. Secret Service by paragraph 123(c) of subpart C of part 1 of subtitle A of title 31 of the Code of Federal Regulations.

(c) *Exempted Systems.*

I. U.S. SECRET SERVICE CRIMINAL INVESTIGATION INFORMATION SYSTEM

The Criminal Investigation Information System is further described in "Notices of Records Systems" published by the General Services Administration.

(1) *Provisions from which exempted.* The Criminal Investigation Information System maintained by the Secret Service contains records described in 5 U.S.C. 552a(j) and (k), the Privacy Act of 1974. Exemptions are claimed for such described records only where appropriate from the following provisions of the Privacy Act of 1974 subsections (c) (3) and (4); (d) (1), (2), (3) and (4); (e) (1), (2), and (3); (e) (4) (G), (H) and (I); (e) (5) and (8); (f) and (g) of 5 U.S.C. 552a.

(2) *Reasons for claimed exemptions.* a. 5 U.S.C. 552a(c)(3): This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c) (1) and (2) to the individual named in the record at his request. The reasons why the Criminal Investigation Information System is exempted from the foregoing provision are as follows:

(i) The release of accounting disclosures would put the subject of a criminal investigation on notice of the existence of an investigation and that he is the subject of that investigation;

(ii) It would provide the subject of a criminal investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure is made. Obviously, the release of such information to the subject of a criminal investigation would provide him with significant information concerning the nature of the investigation and could result in impeding or compromising

the efforts of law enforcement personnel to detect and arrest persons suspected of criminal activity;

(iii) Disclosure to the individual of the disclosure accounting after the investigation is closed would alert the individual as to which agencies were investigating him and would put him on notice concerning the scope of his suspected criminal activities and could aid him in avoiding detection and apprehension.

b. 5 U.S.C. 552a (c)(4); (d); (e)(4) (G) and (H); (f) and (g): The foregoing provisions of the Privacy Act relate to an individual's right to notification of the existence of records pertaining to him and access to such records; the agency procedures relating to notification, access and contest of the information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. The reasons why the Criminal Investigation Information System of records is exempted from the foregoing provisions are as follows:

(i) To notify an individual at his request of the existence of records pertaining to him in the Criminal Investigation Information System would inform the individual of the existence of an investigation and that he is the subject of that investigation. This would enable the individual to avoid detection and would further enable him to inform co-conspirators of the fact that an investigation is being conducted;

(ii) To permit access to the records contained in the Criminal Investigation Information System would not only inform an individual that he is or was the subject of a criminal investigation, but would also provide him with significant information concerning the nature of the investigation which might enable him to avoid detection or apprehension;

(iii) To grant access to an on-going or closed criminal investigative file could interfere with Secret Service investigative and enforcement proceedings, deprive co-defendants of a right to a fair trial or an impartial adjudication, constitute an unwarranted invasion of the personal privacy of others, disclose the identity of confidential sources and re-

veal confidential information supplied by such sources, and disclose investigative techniques and procedures, or endanger the life or physical safety of law enforcement personnel, informants, witnesses, and other persons supplying information to investigators.

c. 5 U.S.C. 552a(e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records, in each system of records. The reasons why the Criminal Investigation Information System of records is exempted from the foregoing provision are as follows:

(i) Revealing sources of information could disclose investigative techniques and procedures;

(ii) Revealing sources of information could result in retaliation and threat of reprisal by the subject under investigation against such sources;

(iii) Revealing sources of information could cause witnesses, informants and others who supply information to criminal investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality;

(iv) Revealing sources of information could result in the refusal of some sources to give full and complete information or to be candid with investigators because of the knowledge that the identity of such sources may be disclosed.

d. 5 U.S.C. 552a(e)(1): This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency. The reasons why the Criminal Investigation Information System of records is exempted from the foregoing provisions are as follows:

(i) In a criminal investigation it is difficult to accurately determine the relevancy and necessity of information during the process of information gathering. Only after the information is evaluated can the relevancy and necessity of such information be ascertained;

(ii) In a criminal investigation, the Secret Service often obtains information concerning the violations of laws other than those within the scope of its criminal investigative jurisdiction. In

§ 1.36

the interest of effective law enforcement, the Secret Service should retain this information as it may aid in establishing patterns of criminal activity, and provide valuable leads for those law enforcement agencies charged with enforcing other segments of the criminal law;

(iii) In interviewing persons, or obtaining other forms of evidence during a criminal investigation, information will be supplied to the investigator which relates to matters which are ancillary to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information is not readily susceptible to segregation.

e. 5 U.S.C. 552a(e)(2): This provision of the Privacy Act requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's right, benefits and privileges under Federal programs. The reasons why the Criminal Investigation Information System is exempted from the foregoing provision are as follows:

(i) In certain instances, the subject of a criminal investigation is not required to supply information to investigators as a matter of legal right. In those instances, information relating to a subject's criminal activities must be obtained from other sources;

(ii) A requirement that information be collected from an individual who is the subject of a criminal investigation would put the individual on notice of the existence of the investigation and could enable him to avoid detection or apprehension;

(iii) In a criminal investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to accumulate and verify the evidence necessary for the successful prosecution of persons suspected of violating the criminal laws.

f. 5 U.S.C. 552a(e)(3): This provision of the Privacy Act requires an agency to inform each individual whom it asks to supply information of the authority which authorizes the solicitation of the information and whether disclosure of

31 CFR Subtitle A (7-1-00 Edition)

such information is mandatory or voluntary; the principal purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effect on the individual of not providing the requested information. The reasons why the Criminal Investigation Information System is exempted from the foregoing provision are as follows:

(i) Informing each individual who is asked to supply information in a criminal investigation of the information required under the foregoing provision could inform the individual of the existence of a confidential investigation; reveal the identity of confidential sources of information; and endanger the life or physical safety of confidential informants;

(ii) Informing each individual who is asked to supply information in a criminal investigation of the information required under the foregoing provision could result in an unwarranted invasion of the privacy of individuals who may be the subject of a criminal investigation or who are suspected of engaging in criminal activity;

(iii) Informing each individual who is asked to supply information in a criminal investigation of the information required under the foregoing provision would inhibit such individuals from supplying the requested information and thereby present a serious impediment to the successful investigation and prosecution of violations of the criminal law.

g. 5 U.S.C. 552a(e)(5): This provision of the Privacy Act requires an agency to maintain all records which are used in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. The reasons why the Criminal Investigation Information System is exempted from the foregoing provisions are as follows:

(i) In gathering information during the course of a criminal investigation it is usually not possible to determine in advance what information is accurate, relevant, timely, and complete. Seemingly nonrelevant or untimely information may acquire new significance as an investigation progresses;

(ii) The restrictions on the maintenance of the records contained in the foregoing provision could impede investigators and intelligence analysts in the exercise of their judgment and discretion in reporting on criminal investigations;

(iii) Compliance with the records maintenance criteria listed in the foregoing provision could require the periodic up-dating of Secret Service criminal investigations to insure that the records maintained in the system remain timely and complete.

h. 5 U.S.C. 552a(e)(8): This provision of the Privacy Act requires an agency to make reasonable efforts to serve notice to an individual when any record on such individual is made available to any person under compulsory legal process becomes a matter of public record. The reasons why the Criminal Investigation Information System is exempted from the foregoing provision are as follows:

(i) The notice requirement of the foregoing provision could impede law enforcement by revealing investigative techniques and procedures;

(ii) The notice requirement of the foregoing provision could reveal the existence of confidential investigations to individuals who are the subjects of such investigations.

i. The foregoing exemptions are claimed for materials maintained in the Criminal Investigation Information System to the extent that such materials contain information and reports described in 5 U.S.C. 552a(j) (2). Further, records maintained in the Criminal Investigation Information System described in 5 U.S.C. 552a(k) are exempted from subsections (c)(3), (d) (1), (2), (3) and (4), (e)(1), (e)(4) (G), (H) and (I) and (f) of 5 U.S.C. 552a for the reasons previously stated.

II. U.S. SECRET SERVICE NON-CRIMINAL INVESTIGATION INFORMATION SYSTEM

The Non-Criminal Investigation Information System is further described in "Notices of Records Systems" published by the General Services Administration.

(1) Provisions from which exempted: The Non-Criminal Investigation Information System maintained by the Secret Service contains records similar

to those described in 5 U.S.C. 552a(k), the Privacy Act of 1974. Exemptions are claimed for such described records where appropriate from the following provisions of the Privacy Act of 1974: subsections (c)(3), (d) (1), (2), (3) and (4), (e)(1), (e)(4) (G), (H) and (I) and (f) of 5 U.S.C. 552a.

(2) *Reasons for claimed exemptions.* a. 5 U.S.C. 552a(c)(3): This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c) (1) and (2) to the individual named in the record at his request. The reasons why the Non-Criminal Investigation Information System is exempted from the foregoing provision are as follows:

(i) The release of accounting disclosures would put the subject of an investigation on notice of the existence of an investigation and that he is the subject of that investigation;

(ii) It would provide the subject of an investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure is made. Obviously, the release of such information to the subject of an investigation would provide him with significant information concerning the nature of the investigation and could result in impeding or compromising the efforts of law enforcement personnel to obtain information essential to the successful conclusion of the investigation;

(iii) Disclosure to the individual of the disclosure accounting after the investigation is closed would alert the individual as to which agencies were investigating him; put him on notice concerning the scope of his suspected activities and reveal investigatory techniques and the identity of confidential informants. It could result in an invasion of privacy of private citizens who provide information in connection with a particular investigation.

b. 5 U.S.C. 552a; (d), (e)(4) (G), (H) and (f): The foregoing provisions of the Privacy Act relate to an individual's right to notification of the existence of records pertaining to him and access to such records and the agency procedures relating to notification, access and contest of the information contained in

§ 1.36

such records. The reasons why the Non-Criminal Investigation Information System of records is exempted from the foregoing provisions are as follows:

(i) To notify an individual at his request of the existence of records pertaining to him in the Non-Criminal Investigation Information System would inform the individual of the existence of an investigation and that he is the subject of that investigation. This could enable the individual to secrete or destroy evidence essential to the successful completion of the investigation;

(ii) To permit access to the records contained in the Non-Criminal Investigation System would not only inform an individual that he is or was the subject of an investigation, but would also provide him with significant information concerning the nature of the investigation which might enable him to avoid detection or apprehension;

(iii) To grant access to an on-going or closed non-criminal investigative file would interfere with Secret Service investigative and enforcement proceedings; deprive other parties involved in the investigations of a right to a fair trial or an impartial adjudication; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by such sources; and disclose investigative techniques and procedures.

c. 5 U.S.C. 552a 3 (e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. The reasons why the Non-Criminal Investigation Information System of records is exempted from the foregoing provision are as follows:

(i) Revealing sources of information would disclose investigative techniques and procedures;

(ii) Revealing sources of information would result in retaliation and threat of reprisal by the subject under investigation against such sources;

(iii) Revealing sources of information could cause witnesses, informants and others who supply information to investigators to refrain from giving such information because of fear of reprisal,

31 CFR Subtitle A (7-1-00 Edition)

or fear of breach of promises of anonymity and confidentiality;

(iv) Revealing sources of information could result in the refusal of some sources to give full and complete information or to be candid with investigators because of the knowledge that the identity of such sources may be disclosed.

d. 5 U.S.C. 552a(e)(1): This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency. The reasons why the Criminal Investigation Information System of records is exempted from the foregoing provision are as follows:

(i) In a non-criminal investigation it is difficult to determine accurately the relevancy and necessity of information during the process of information gathering. It is only after the information is evaluated that the relevancy and necessity of such information can be ascertained;

(ii) In a non-criminal investigative case, the Secret Service often obtains information concerning the violation of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, it is desirable that the Secret Service retain this information since it can aid in establishing patterns of unlawful activity and provide valuable leads for those law enforcement agencies that are charged with enforcing other segments of the criminal, regulatory and civil laws;

(iii) In interviewing persons, or obtaining other forms of evidence during an investigation, information will be supplied to the investigator which relates to matters which are ancillary to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information is not readily susceptible to segregation.

e. The foregoing exemptions are claimed for records maintained in the Non-Criminal Investigation Information System only to the extent that such records contain materials described in subsection (k) of 5 U.S.C. 552a, the Privacy Act of 1974.

III. U.S. SECRET SERVICE PROTECTION
INFORMATION SYSTEM

The Protection Information System is further described in "Notices of Records Systems" published by the General Services Administration.

(1) *Provisions from which exempted.* The Protection Information System maintained by the Secret Service contains records similar to those described in 5 U.S.C. 552a (j) and (k), the Privacy Act of 1974. The Protection Information System contains material relating to criminal investigations concerned with the enforcement of criminal statutes involving the security of persons and property. Further, this system contains records described in 5 U.S.C. 552a(k) including, but not limited to, classified materials and investigatory material compiled for law enforcement purposes. There are maintained in the Protection Information System, in addition to the categories of records described above, records which are considered necessary to assuring the safety of individuals protected by the Secret Service Pursuant to the provisions of 18 U.S.C. 3056 and Pub. L. 90-331 (5 U.S.C. 552a(k)(3)). Exemptions are claimed for the above described records only where appropriate from the following provisions of the Privacy Act of 1974: subsections (c)(3) and (d) (1), (2), (3) and (4); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f) and (g) of 5 U.S.C. 552a.

(2) *Reasons for claimed exemptions.* a. 5 U.S.C. 552a(c)(3): This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c) (1) and (2) to the individual named in the record at his request. The reasons why the Protection Information System is exempted from the foregoing provision are as follows:

(i) The release of accounting disclosures would put the subject of a protective intelligence file on notice of the existence of an investigation and that he is the subject of that investigation;

(ii) It would provide the subject of a protective intelligence file with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure is made. Obviously, the release of such informa-

tion to the subject of a protective intelligence file would provide him with significant information concerning the nature of the investigation, and could result in impeding or compromising the efforts of Secret Service personnel to detect persons suspected of criminal activities or to collect information necessary for the proper evaluation of persons considered to be of protective interest;

(iii) Disclosures of the disclosure accounting after the protective intelligence file is closed would alert the individual as to which agencies were investigating him and would put him on notice concerning the scope of the protective intelligence investigation and could aid him in avoiding detection.

b. 5 U.S.C. 552a (c)(4); (d); (e)(4) (G) and (H); (f) and (g): The foregoing provisions of the Privacy Act relate to an individual's right to notification of the existence of records pertaining to him and access to such records; the agency procedures relating to notification; access and contest of the information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. The reasons why the Protection Information System of records is exempted from the foregoing provisions are as follows:

(i) To notify an individual at his request of the existence of records pertaining to him in the Protection Information System would be injurious to the protective intelligence activities of the Secret Service if the existence of files on the subject were even acknowledged. Granting access to the criminal and the unstable person would necessarily lead to knowledge of the sources of Secret Service information and could endanger other enforcement and intelligence operations and confidential sources including co-workers, friends and relatives of the subjects of such records;

(ii) Limitation on access to the materials contained in the Protection Information System is considered necessary to the preservation of the utility of intelligence files and in safeguarding

§ 1.36

those persons the Secret Service is authorized to protect. Without such denial of access the Protection Information System could adversely effect in the poor quality of information available; in compromised confidential sources; in the inability to keep track of persons of protective interest; and from interference with Secret Service protective intelligence activities by individuals gaining access to protective intelligence files. Many of the persons on whom records are maintained in the Protection Information System suffer from mental aberrations. Knowledge of their condition and progress comes from authorities, family members and witnesses. Many times this information comes to the Secret Service as a result of two party conversations where it would be impossible to hide the identity of informants. Sources of information must be developed, questions asked and answers recorded. Trust must be extended and guarantees of confidentiality and anonymity must be maintained. Allowing access of information of this kind to individuals who are the subjects of protective interest may well lead to violence directed against an informant by a mentally disturbed individual;

(iii) Permitting access to protective intelligence files would reveal techniques and procedures, not only of Secret Service protective investigations but could reveal the criteria by which protective intelligence subjects are evaluated;

(iv) To notify an individual at his request of the existence of records pertaining to him in the Protection Information System would inform the individual of the existence of an investigation and that he is the subject of protective interest. This would enable the individual to avoid detection and would further enable him to inform co-conspirators of the fact that an investigation is being conducted;

(v) To permit access to the records contained in the Protection Information System would not only inform an individual that he is or was the subject of protective interest, but would also provide him with significant information concerning the nature of any investigation concerning his activities;

31 CFR Subtitle A (7-1-00 Edition)

(vi) To grant access to current or closed protective intelligence files would interfere with Secret Service investigative and enforcement proceedings; deprive co-defendants of a right to a fair trial or an impartial adjudication; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources; reveal confidential information supplied by such sources; and disclose investigative techniques and procedures, and endanger the life or physical safety of law enforcement personnel, informants, witnesses, and other persons supplying information to investigators.

c. 5 U.S.C. 552a(e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. The reasons why the Protection Information System of records is exempted from the foregoing provision are as follows:

(i) Revealing sources of information would disclose investigative techniques and procedures;

(ii) Revealing sources of information would result in retaliation and threat of reprisal by the subject of a protective intelligence file;

(iii) Revealing sources of information would cause witnesses, informants and others who supply information to Secret Service investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality;

(iv) Revealing sources of information would result in the refusal of some sources to give full and complete information or to be candid with investigators because of the knowledge that the identity of such sources may be disclosed.

d. 5 U.S.C. 552a(e)(1): This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency. The reasons why the Protection Information System of records is exempted from the foregoing provisions are as follows:

(i) In gathering protective intelligence information it is difficult to determine accurately the relevancy and

necessity of information during the process of information gathering. It is only after the information is evaluated that the relevancy and necessity of such information can be ascertained;

(ii) In carrying out protective intelligence responsibilities the Secret Service often obtains information concerning the violation of laws other than those within the scope of its protective intelligence jurisdiction. In the interest of effective law enforcement, it is desirable that the Secret Service retain this information since it can aid in establishing patterns of criminal activity and provide valuable leads for those law enforcement agencies that are charged with enforcing other segments of the criminal law;

(iii) During protective intelligence investigations, information will be supplied to the investigator which relates to matters which are ancillary to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information is not readily susceptible to segregation.

e. 5 U.S.C. 552a(c)(2): This provision of the Privacy Act requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits and privileges under Federal programs. The reasons why the Protection Information System is exempted from the foregoing provision are as follows:

(i) In certain instances, where the protective intelligence subject is suspected of criminal activity, he is not required to supply information to investigators as a matter of legal right. In those instances, information relating to a subject's criminal activities must be obtained from other sources;

(ii) A requirement that information be collected from an individual who is of protective interest would put the individual on notice of the existence of the intelligence investigation and such knowledge would enable him to avoid detection in the event that the individual attempted to physically harm persons protected by the Secret Service;

(iii) In a protective intelligence investigation where the subject of the in-

vestigation is suspected of engaging in criminal activities it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to accumulate and verify the evidence necessary for the successful prosecution of persons suspected of violating the criminal laws.

f. 5 U.S.C. 552a(e)(3): This provision of the Privacy Act requires an agency to inform each individual whom it asks to supply information of the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary; the principle purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effect on the individual of not providing the requested information. The reasons why the Protection Information System is exempted from the foregoing provision are as follows:

(i) Informing each individual who is asked to supply information in a protective intelligence investigation of the information required under the foregoing provision would inform the individual of the existence of a confidential investigation; reveal the identity of confidential sources of information; and endanger the life or physical safety of confidential informants;

(ii) Informing each individual who is asked to supply information in a protective intelligence investigation of the information required under the foregoing provision would result in an unwarranted invasion of the privacy of individuals who may be the subject of a criminal investigation or who are suspected of engaging in criminal activity;

(iii) Informing each individual who is asked to supply information in a protective intelligence investigation of the information required under the foregoing provision would inhibit such individuals from supplying the requested information and thereby present a serious impediment to the success of the Secret Service in carrying out its protective intelligence activities.

g. 5 U.S.C. 552a(e)(5): This provision of the Privacy Act requires an agency to maintain all records which are used

§ 1.36

in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. The reasons why the Protection Information System is exempted from the foregoing provisions are as follows:

(i) In gathering information during the course of a protective intelligence investigation it is usually not possible to determine in advance what information is accurate, relevant, timely, and complete. Seemingly nonrelevant or untimely information may acquire new significance as an investigation progresses;

(ii) The restrictions on the maintenance of the records contained in the foregoing provision would impede investigators and intelligence analysts in the exercise of their judgment and discretion in reporting on protective intelligence subjects;

(iii) Compliance with the records maintenance criteria listed in the foregoing provision would require the periodic up-dating of Secret Service protective intelligence files to insure that the records maintained in the system remain timely and complete.

h. 5 U.S.C. 552a(e)(8): This provision of the Privacy Act requires an agency to make reasonable efforts to serve notice to an individual when any record on such individual is made available to any person under compulsory legal process becomes a matter of public record. The reasons why the Protection Information System is exempted from the foregoing provision are as follows:

(i) The notice requirement of the foregoing provision could impede Secret Service protective efforts by revealing techniques and procedures;

(ii) The notice requirements of the foregoing provision could reveal the existence of confidential investigations to individuals who are the subjects of such investigations.

i. The foregoing exemptions are claimed for materials maintained in the Protection Information System to the extent that such materials contain information and reports described in 5 U.S.C. 552a(j)(2). Further, records maintained in the Protection Information System described in 5 U.S.C. 552a(k)

31 CFR Subtitle A (7-1-00 Edition)

are to be exempted from subsections (c)(3), (d) (1), (2), (3) and (4); (e)(1), (e)(4) (G), (H) and (I) and (f) of 5 U.S.C. 552a for the reasons previously stated.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

NOTICE OF SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE PRIVACY ACT OF 1974

In accordance with 5 U.S.C. 552a (j) and (k), general notice is hereby given of rulemaking under the Privacy Act of 1974 by the Director, Bureau of Alcohol, Tobacco and Firearms. The Director, Bureau of Alcohol, Tobacco and Firearms, exempts the systems of records identified in paragraphs (a), (b) and (c) of this section from certain provisions of the Privacy Act of 1974 as set forth in such paragraphs.

EXEMPTIONS

(a) *General exemptions.* Under the provisions of 5 U.S.C. 552a(j), the Director, Bureau of Alcohol, Tobacco and Firearms, hereby determines that certain provisions of the Privacy Act of 1974 shall not apply to the *Treasury—ATF Criminal Investigation Report System*.

(1) The Privacy Act of 1974 creates several methods by which individuals who are of record in this system of records may discover information collected about their criminal activities. These methods are as follows: subsections (e)(4)(G) and (f)(1) allow individuals to ascertain whether their criminal activities have been recorded; subsections (d)(1), (e)(4)(H), and (f) (2), (3) and (5) establish the ability of individuals to gain access into the investigatory files maintained on their criminal activities; subsections (d) (2), (3) and (4), (e)(4)(H), and (f)(4) presuppose access and further enable individuals to contest the contents of their criminal files; subsection (c)(3) allows individuals to discover if other law enforcement agencies are investigating their criminal activities and subsection (e)(4)(I) discloses the categories of sources of records in the system. Since these subsections are variations upon the criminal subjects' ability to ascertain whether a Federal law enforcement agency has uncovered their criminal misdeeds, these subsections

have been grouped together for purposes of this notice.

(A) With respect to subsections (e)(4)(G) and (f)(1), the Bureau of Alcohol, Tobacco and Firearms believes that imposition of these requirements would identify to individuals the fact that they are of record, and in so doing, compromise the ability of ATF to successfully complete an investigation into violations of law. Where individuals have the ability to discover the location and specific character of their investigative records in this system, they will be able to determine the nature of the investigation, the type of surveillance utilized and the precise stage of the investigation into their criminal activities. When individuals can determine that the investigation into their criminal activities has been closed, they are placed on notice that they may safely resume their illegal conduct. For these reasons, ATF seeks exemption of this system from subsections (e)(4)(G) and (f)(1).

(B) With respect to subsections (d)(1), (e)(4)(H) and (f) (2), (3) and (5), the Bureau of Alcohol, Tobacco and Firearms believes that access into criminal investigative files poses present and future dangers on the ability of this agency to effectively enforce the criminal laws committed to its administration. Where individuals may break into an ongoing criminal investigative file they discover the collection of facts which will form the basis of their arrests. Knowledge of these facts enables them to destroy valuable contraband or other evidence of their activities prior to lawful seizure and thereby prevent enforcement proceedings. The ongoing investigative file may reveal that reasonable cause exists to believe that a crime is about to be committed. Disclosure of these facts enable individuals with criminal intent to either postpone the commission of their criminal acts or relocate the scene of the crime to an alternatively acceptable location where Federal agents will not be anticipated. After a criminal investigation has been closed, information in the file nevertheless reveals to the investigated subjects the techniques and procedures utilized by a law enforcement agency. Knowledge of these investigative techniques and pro-

cedures by individuals and groups devoted to crime enables them to structure their future operations in such a way as to place these activities beyond discovery until after the crime has been committed. Thus, the ability of Federal agents to prevent crime by apprehension of the criminals at the precise moment of commission of the criminal act is seriously jeopardized.

Disclosure of investigative techniques and procedures could further render the commission of the criminal act itself not susceptible to reconstruction and tracing to its originator. Armed with a knowledge of forensic science and the applied technology of criminal investigation contained in their own files, individuals and groups of individuals devoted to crime have the necessary information to develop counter-techniques which may effectively neutralize established investigative tools and procedures. Additionally, a closed criminal file reveals the identities of informers and undercover agents who have possibly risked their lives and the lives of their families by contributing information concerning the criminal activities of individuals and groups. Oftentimes, friends, family, neighbors and business associates of the subject under investigation, secure in the assured anonymity of a Federal criminal investigation, are not afraid to furnish valuable information relating to the criminal activities of the subjects of investigation. Where criminal subjects have access to the confidential information in their criminal files (with or without the identities of the sources) they can determine from the nature of the information and by process of elimination the identity of those individuals against whom to retaliate. This legitimate fear of reprisal exists in the minds of neighbors, relatives, and co-workers, especially with regard to individuals who are violence-prone or emotionally unstable. As a direct result of this fear of discovery through access to the investigative file, sources close to the criminal subject would decline to be interviewed or otherwise refrain from contact with the Bureau. This absence of information would render the Bureau unable to comply effectively with the mandates of the statutes committed to its administration. For these

§ 1.36

31 CFR Subtitle A (7-1-00 Edition)

reasons, ATF seeks exemption of this system from subsections (d)(1), (e)(4)(H) and (f) (2), (3) and (5).

(C) With respect to subsections (d) (2), (3) and (4), (e)(4)(H), and (f)(4), which presuppose access and provide for contest of the content of records contained in this system, the Bureau of Alcohol, Tobacco and Firearms believes that the reasons set forth in subparagraph (B) of paragraph (1) of this subsection are equally applicable to this subparagraph, and are hereby incorporated by reference. For these reasons, ATF seeks exemption of this system from subsections (d) (2), (3) and (4), (e)(4)(H) and (f)(4).

(D) With respect to subsection (c)(3) which provides for making the accounting of disclosures available to the requester, the Bureau of Alcohol, Tobacco and Firearms believes that access to this accounting by a subject under investigation would impair the ability of other law enforcement agencies to utilize information developed by ATF for their investigations into violations of criminal laws not enforced by ATF. Where the interstate criminal activities of individuals or groups span the jurisdictions of several law enforcement agencies, information will be shared by these agencies in their attempts to bring these violators to justice. Disclosure of the accounting will alert such individuals to which agencies are conducting investigations, the geographic locations of such investigations, the nature and purpose of the investigations, and the date during which the investigation received information maintained by ATF. Supplied with this information, individuals or groups may ascertain which of their criminal activities have been discovered and the law enforcement agencies which are in current pursuit. For these reasons, ATF seeks exemption of this system from subsection (c)(3).

(E) With respect to subsection (e)(4)(I), which requires publication of the categories of sources for a record system, the Bureau of Alcohol, Tobacco and Firearms believes that imposition of subsection (e)(4)(I) upon this system would reveal investigative techniques and procedures. For this reason, ATF seeks exemption of this system from subsection (e)(4)(I).

(2) The Privacy Act of 1974 provides, at subsection (e)(1), that an agency may maintain only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by a statute or executive order of the President. The term "maintain" is defined in the Privacy Act to include the initial collection of information. The Bureau of Alcohol, Tobacco and Firearms believes that exemption of this system from subsection (e)(1) is appropriate because not all violations uncovered in an investigation are capable of enforcement by ATF. Where individuals or groups are engaged in a multiplicity of criminal violations, this evidence should be recorded by ATF and transferred to the appropriate law enforcement agencies. This Bureau should not and cannot legally ignore violations of law uncovered in a lawful ATF investigation merely because ATF has no authority to bring the criminal to justice for these non-ATF violations. Where other agencies uncover evidence of ATF violations, this information must be susceptible to collection and preservation by that agency for subsequent use by ATF. Where an investigation by ATF uncovers only ATF violations, information may initially appear irrelevant and unnecessary when collected. However, a later stage of the investigation may uncover additional facts which when placed together with the initially collected irrelevant information, form the basis for reasonable cause to believe that additional suspects are involved or additional crimes have been or are being committed. Until all facts have been gathered and evaluated at the conclusion of the investigation it may not be possible to determine relevancy and necessity. For these reasons, ATF seeks exemption of this system from subsection (e)(1).

(3) The Privacy Act of 1974 provides at subsection (e)(2) that an agency must collect information to the greatest extent practicable directly from the subject individual. The Bureau of Alcohol, Tobacco and Firearms believes that this system should be exempted from subsection (e)(2) because most information gathered upon a subject under investigation is obtained

from third parties and witnesses. There is a minimal degree of practicability in contacting a criminal subject for purposes of seeking information as to his criminal activities. Such contact alerts the individual that he is under investigation and affords him opportunity to conceal his criminal activities or otherwise avoid detection or apprehension. In certain instances, the subject of a criminal investigation is not required to supply information to investigators as a matter of legal right. Law violators seldom give self-incriminatory information about their involvement in criminal activities. In those instances, information relating to the subject's criminal activities must be obtained from other sources. For these reasons, ATF seeks exemption of this system from subsection (e)(2).

(4) The Privacy Act of 1974 provides at subsection (e)(3) that each individual must be informed of the authority, principle purposes, and routine uses and effects on the individual when requested to provide information. The Bureau of Alcohol, Tobacco and Firearms believes that this system should be exempted from subsection (e)(3). When information is obtained by undercover officers, conformity to (e)(3) discloses their identity as agents of a law enforcement authority and thereby impairs their physical safety as well as the successful conclusion of the investigation. When presented with a written statement complying with (e)(3) by special agents acting in undercover capacity, the individual may not thereafter be completely open with such agents. For these reasons, ATF seeks exemption of this system from subsection (e)(3).

(5) The Privacy Act of 1974 provides at subsection (e)(5) that an agency maintain all records which are used in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Since the law defines "maintain" to include collection of information, the Bureau of Alcohol, Tobacco and Firearms believes that this system should be exempt from subsection (e)(5) because it would prohibit the initial collection of any data not shown to be ac-

curate, relevant, timely or complete at the moment of its collection. In gathering information during the course of a criminal investigation it is not feasible or possible to determine completeness, accuracy, timeliness or relevancy prior to collection of the information. Facts are first gathered then placed into a cohesive order which objectively proves or disproves criminal behavior on the part of a suspect. Seemingly irrelevant, untimely and incomplete information when gathered may acquire new significance as an investigation progresses. The restrictions of (e)(5) could impede special agents in the preparation of a complete investigative report. For these reasons, ATF seeks exemption of this system from subsection (e)(5).

(6) The Privacy Act of 1974 provides, at subsection (e)(8), that an agency must make reasonable efforts to serve notice on an individual when his records are made available pursuant to compulsory legal process, when such process becomes a matter of public record. Such a requirement would impose unnecessary and unusual administrative demands on the Bureau of Alcohol, Tobacco and Firearms by requiring a record system to follow up on legal process emanating from court proceedings to which ATF is not a party. The Bureau of Alcohol, Tobacco and Firearms believes the duty of serving notice in such a case properly rests with the moving party who seeks disclosure by utilization of the court's compulsory legal process. Further, in most cases where an individual's criminal records have been disclosed pursuant to compulsory legal process, the individual who is the subject of the records will be a party to the proceedings and will have actual notice of the disclosure. For these reasons, ATF seeks exemption of this system from subsection (e)(8).

(7) The Privacy Act of 1974 provides, at subsection (g), civil remedies for agency failure to grant access, agency failure to amend records, agency failure to maintain accurate, relevant, timely and complete records and agency failure to comply with provisions of the Privacy Act which have an adverse effect on an individual. The Bureau of

§ 1.36

Alcohol, Tobacco and Firearms believes that this system should be exempted from subsection (g) because the civil remedies provided in this subsection apply to provisions in the Privacy Act which have been exempted from application to this system by virtue of this notice. Since these provisions are not intended to apply to this system, there should be no corresponding civil penalty for failure to comply with the requirements of these sections due to exercise of the exemption authority. ATF believes that application of this subsection to this system of records would impair ATF's ability to conduct investigations into the criminal behavior of suspects because every step in the investigation process in which information is compiled for prosecution purposes would be susceptible to civil action under this subsection. For these reasons, ATF seeks exemption of this system from subsection (g).

(b) *Specific exemptions under section 552a(k)(2).* Under the provisions of 5 U.S.C. 552a(k)(2), the Director, Bureau of Alcohol, Tobacco and Firearms, hereby determines that certain provisions of the Privacy Act of 1974 shall not apply to the *Treasury—ATF—Regulatory Enforcement Record System*, the *Treasury—ATF—Technical and Scientific Services Record System*, and that portion of the *Treasury—ATF—Internal Security Record System* relating to "conduct of employees" and "integrity of employees" records.

(1) The Privacy Act of 1974 creates several methods by which individuals may discover records containing information on such individuals and consisting of investigatory material compiled for law enforcement purposes. These methods are as follows: subsection (c)(3) allows individuals to discover if other agencies are investigating such individuals; subsections (d)(1), (e)(4)(H), and (f) (2), (3) and (5) establish the ability of individuals to gain access to investigatory material compiled on such individuals; subsections (d) (2), (3) and (4), (e)(4)(H) and (f)(4) presuppose access and enable individuals to contest the contents of investigatory material compiled on these individuals; and subsections (e)(4)(G) and (f)(1) allow individuals to deter-

31 CFR Subtitle A (7-1-00 Edition)

mine whether or not they are under investigation. Since these subsections are variations upon the individuals' ability to ascertain whether their civil or criminal misdeeds have been discovered, these subsections have been grouped together for purposes of this notice.

(A) The Bureau of Alcohol, Tobacco and Firearms believes that imposition of the requirements of subsection (c) (3), requiring accounting of disclosures be made available to individuals, would impair the ability of ATF and other investigative entities to conduct investigations of alleged or suspected violations of civil or criminal laws. Making the accounting of disclosures available identifies to individuals which investigative entities are investigating the individuals, the nature of the violations of which they are suspected, and the purpose for the exchange of information. Supplied with this information, the individuals concerned would be able to alter their ongoing and future illegal activities, conceal or destroy evidentiary materials and documents, and otherwise seriously impair the successful completion of investigations. Further, where individuals learn the geographic location and identity of the investigative entities which are interested in them, such individuals are able to move the site of their illegal activities or become secure in the knowledge that their illegal activities have not been detected in particular geographic locations. For these reasons, ATF seeks an exemption from the requirements of subsection (c)(3).

(B) With respect to subsections (d) (1), (e)(4)(H), and (f) (2), (3) and (5), the Bureau of Alcohol, Tobacco and Firearms believes that access into investigatory material would prevent the successful completion of ongoing investigations. Individuals who gain access to investigatory material compiled on them discover the nature and extent of the violations of civil or criminal laws which they are suspected or alleged to have committed. By gaining access, such individuals also learn the facts developed during an investigation. Knowledge of the facts and the nature and extent of the suspected or alleged violations enables these individuals to destroy materials or documents which

would have been used as evidence against them. In addition, knowledge of the facts and the suspected violations gives individuals, who are committing ongoing violations or who are about to commit violations of civil or criminal laws, the opportunity to temporarily postpone the commission of the violations or to effectively disguise the commission of these violations. Access to material compiled on investigated individuals reveals investigative techniques and the procedures followed in conducting investigations. Disclosure of these techniques and procedures enables individuals who intend to violate civil or criminal laws to structure their future illegal activities in such a way that they escape detection. Investigative material may contain the identity of confidential sources of information. Individuals who gain access to investigatory material compiled on them learn the identity of these confidential sources. Even where the name of the source is not revealed, investigated individuals may learn the identity of confidential sources by the process of elimination or by the very nature of the information contained in the files. Where the identity of confidential sources has been revealed, they may be subject to various forms of reprisal. If confidential sources of information are subjected to reprisals or the fear of reprisals, they would become reluctant to provide information necessary to identify or prove the guilt of individuals who violate civil or criminal laws. Without the information that is often supplied by confidential sources, the ability of investigative entities would be seriously impaired. For the reasons stated in this paragraph, ATF seeks exemption from the requirements of subsections (d)(1), (e)(4)(H), and (f) (2), (3) and (5).

(C) With respect to subsections (d) (2), (3) and (4), (e) (4) (H), and (f) (4), the Bureau of Alcohol, Tobacco and Firearms believes that the imposition of these requirements, which presuppose access and provide for amending records, would impair ATF's ability to conduct investigations for the same reasons stated in the preceding paragraph (b)(1)(B), and are incorporated by reference herein. Therefore, ATF seeks exemption from the requirements of

subsections (d) (2), (3) and (4), (e)(4)(H), and (f)(4).

(D) With respect to subsections (e) (4)(G) and (f)(1), the Bureau of Alcohol, Tobacco and Firearms believes that informing individuals that they are of record would impair the ability of ATF to successfully complete the investigations of suspected or alleged violators of civil or criminal laws. Individuals, who are informed that they have been identified as suspected violators of civil or criminal laws, are given the opportunity to destroy evidence or other material needed to prove the alleged violations. Such individuals would also be able to impair investigations by temporarily suspending ongoing illegal activities or by restructuring intended illegal activities. Informing individuals that they are of record in a particular system of records enables such individuals to learn the nature of the investigation, the character of the investigatory material and the specific civil or criminal laws they are suspected of violating. For these reasons, ATF seeks exemption from the requirements of subsections (e)(4)(G) and (f)(1).

(2) Subsection (e)(1) of the Privacy Act of 1974 requires that ATF maintain in its records only information that is relevant and necessary to accomplish a purpose of ATF required to be accomplished by statute or by executive order of the President. The Bureau of Alcohol, Tobacco and Firearms believes that imposition of such requirement would seriously impair the ability of ATF and other investigative entities to effectively investigate suspected or alleged violations of civil or criminal laws. Where individuals are engaged in a broad variety of violations, if ATF were only to collect information necessary and relevant to laws under ATF's jurisdiction, ATF would be unable to perform one of its functions, i.e., working with other governmental agencies which have similar jurisdictional concerns. Additionally, it is often impossible to determine whether or not information is relevant and necessary until the investigation is completed. When initially collected, information may appear irrelevant or immaterial. However, when this information is placed together with additional data gathered at a later stage of

the investigation, the initially collected irrelevant information may form the basis for reasonable cause to believe additional violations of law are present or additional suspects are involved. Until all facts have been gathered and evaluated it may not be possible to determine relevancy and materiality. For these reasons, ATF seeks an exemption from the requirement of subsection (e)(1).

(c) *Specific exemptions under section 552a (k)(5).* The Director, Bureau of Alcohol, Tobacco and Firearms exempts under section (k) of the Privacy Act of 1974, 5 U.S.C. 552a, that portion of the *Treasury—ATF—Internal Security Record System* relating to “security clearances for employees” records, and the *Treasury—ATF—Personnel Record System* from sections (c)(3), (d) (1) through (4), (e)(1), (e)(4)(G) through (e)(4)(I), and (f) of the Act. The records maintained in the exempt systems of records are of the type described in section (k)(5) of the Act: Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Thus to the extent that the records in this system can be disclosed without revealing the identity of a confidential source, they are not within the scope of this proposed exemption and are subject to all the requirements of the Privacy Act.

The sections of the Act from which this system of records are exempt are in general those providing for individual access to records. When such access would cause the identity of a confidential source to be revealed, it would impair the future ability of the Treasury Department to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian em-

ployment, Federal contracts, or access to classified information.

In addition, the systems are exempt from section (e)(1) which requires that the agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a statutory or executive ordered purpose. The Director finds that to fulfill the requirements of section (e) (1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

If any investigations within the scope of section (k)(5) become involved with civil or criminal matters, exemptions from the Act could also be asserted under sections (k)(2) or (j)(2).

(d) *Application of exemptions to records exempt in whole or in part.* (1) When an individual requests records about himself which have been exempted from individual access pursuant to 5 U.S.C. 552a(j) or which have been compiled in reasonable anticipation of a civil action or proceeding in either a court or before an administrative tribunal, the Bureau of Alcohol, Tobacco and Firearms will neither confirm nor deny the existence of the record but shall advise the individual only that no record available to him pursuant to the Privacy Act of 1974 has been identified.

(2) When there is a request for information which has been classified by ATF pursuant to Executive Order 11652 and Treasury Order 160, ATF will review the information to determine whether it continues to warrant classification under the criteria of sections 1 and 5 (B), (C), (D), and (E) of the Executive Order. Information which no longer warrants classification under these criteria shall be declassified. After declassification, the information shall be made available to the individual, unless an exemption is claimed. If the information continues to warrant classification, the provisions of EO 11652 shall apply.

(3) Requests for information which have been exempted from disclosure pursuant to 5 U.S.C. 552a(k)(2) shall be responded to in the manner provided in paragraph (d)(1) of this section unless a review of the information indicates

Office of the Secretary of the Treasury

§ 1.36

that the information has been used to deny the individual any right, privilege, or benefit for which he is eligible or to which he would otherwise be entitled under federal law. In that event, the individual shall be advised of the existence of the information and shall be provided the information except to the extent it would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(4) Information compiled as part of an employee background investigation which has been exempted pursuant to 5 U.S.C. 552a(k)(5) shall be made available to an individual upon request except to the extent it would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(5) Even though the exemptions described in paragraphs (a), (b) and (c) of this section may be fully applicable, the Bureau may, if not precluded by law, elect under the circumstances of a particular case not to apply the exemption; or to exempt only a part. The fact that the exemption is not applied by the Bureau in a particular case has no precedential significance as to the application of the exemption to such matter in other cases. It is merely an indication that in the particular case involved, the Bureau finds no compelling necessity for applying the exemption to such matter. Where the Bureau has elected not to apply an exemption, in whole or in part, Appendix E of 31 CFR part 1, subpart C, relating to ATF's notice, access and amendment procedures shall apply to the records requested only to the extent that the exemption was not asserted.

BUREAU OF ENGRAVING AND PRINTING, DEPARTMENT OF THE TREASURY

NOTICE OF RULES EXEMPTING CERTAIN SYSTEMS FROM REQUIREMENTS OF THE PRIVACY ACT

(a) *In general.* The Director of the Bureau of Engraving and Printing exempts the Office of Security Investigative Files from the provisions of certain subsections of 5 U.S.C. 552a, the Privacy Act of 1974. The purpose of the exemptions is to maintain the confidentiality of information compiled for the purpose of criminal, non-criminal, employee suitability and security investigations.

(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552a(k) and pursuant to the authority vested in the Director, Bureau of Engraving and Printing.

(c) *Exempted system.* Bureau of Engraving and Printing, Office of Security, Investigative Files.

(1) *Provisions from which exempted.* The Investigative Files maintained by the Office of Security contain records described in 5 U.S.C. 552a(k)(2), the Privacy Act of 1974. Exemptions will be claimed for such described records only where appropriate from the following provisions of the Privacy Act of 1974: Subsections (c)(3); (d) (1), (2), (3), (4); (e)(1); (e)(4) (G), (H), and (I); and (f) of 5 U.S.C. 552a.

(2) *Reasons for claimed exemptions.* a. 5 U.S.C. 552a(c)(3): This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c) (1) and (2) to the individual named in the Investigative Files. The reasons why these files are exempted from the foregoing provision are as follows:

(i) The release of accounting disclosures would put the subject of a security investigation on notice of the existence of an investigation and that he is the subject of that investigation;

§ 1.36

31 CFR Subtitle A (7-1-00 Edition)

(ii) It would provide the subject of an investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure is made. Obviously, the release of such information to the subject of a security investigation would provide him with significant information concerning the nature of the investigation and could result in impeding or compromising the efforts of Bureau Security personnel to detect and report persons suspected of illegal, unlawful, or unauthorized activity;

(iii) Disclosure to the individual of the disclosure accounting after the investigation is closed would alert the individual as to which agencies were investigating him and would put him on notice concerning the scope of his suspected improper activities and could aid him in avoiding detection and apprehension.

b. 5 U.S.C. 552a(d) (1), (2), (3), (4); (e)(4) (G) and (H); and (f): The foregoing provisions of the Privacy Act relate to an individual's right to notification of the existence of records pertaining to him and access to such records; the agency procedures relating to notification, access and contest of the information continued in such records. The reasons why the Investigative Files are exempted from the foregoing provisions are as follows:

(i) To notify an individual at his request of the existence of records pertaining to him in the Investigative Files would inform the individual of the existence of an investigation and that he is the subject of that investigation. This would enable the individual to avoid detection and would further enable him to inform co-conspirators of the fact that an investigation is being conducted;

(ii) To permit access to the records contained in the Investigative Files would not only inform an individual that he is or was the subject of a security investigation, but would also provide him with significant information concerning the nature of the investigation which might enable him to avoid detection or apprehension;

(iii) To grant access to an on-going or closed investigative file could interfere

with Office of Security investigative proceedings, disclose the identity of confidential sources and reveal confidential information supplied by such sources, and disclose investigative techniques and procedures, or endanger the life or physical safety of Office of Security personnel, informants, witnesses, and other persons supplying information to investigators.

c. 5 U.S.C. 552a(e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. The reasons why the Investigative Files are exempted from the foregoing provision are as follows:

(i) Revealing sources of information could disclose investigative techniques and procedures;

(ii) Revealing sources of information could result in retaliation and threat of reprisal by the subject under investigation against such sources;

(iii) Revealing sources of information could cause witnesses, informants and others who supply information to Office of Security investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality;

(iv) Revealing sources of information could result in the refusal of some sources to give full and complete information or to be candid with investigators because of the knowledge that the identity of such sources may be disclosed.

d. 5 U.S.C. 552a(e)(1): This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency. The reasons why the Investigative Files are exempted from the foregoing provision are as follows:

(i) In a security investigation it is difficult to determine accurately the relevancy and necessity of information during the process of information gathering. It is only after the information is evaluated that the relevancy and necessity of such information can be ascertained;

(ii) In a security investigation, the Office of Security often obtains information concerning the violation of

laws other than those within the scope of its responsibilities. In the interest of effective law enforcement, it is desirable that the Office of Security retain this information since it can aid in establishing patterns of criminal activity and provide valuable leads for those law enforcement agencies that are charged with enforcing other segments of the criminal law;

(iii) In interviewing persons, or obtaining other forms of evidence during a criminal investigation, information will be supplied to the investigator which relates to matters which are ancillary to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information is not readily susceptible to segregation.

e. The foregoing exemptions are claimed for materials maintained in the Investigative Files to the extent that such materials contain information and reports described in 5 U.S.C. 552a(k)(2).

The Bureau of Engraving and Printing exempts under section (k) of the Privacy Act of 1974, 5 U.S.C. 552a, the Bureau's Personnel Security Files and Personnel Security Files and Indices from sections (c)(3), (d), (e)(1), (e)(4)(G) through (e)(4)(I), and (f) of the Act. The records maintained in the exempt systems of records are of the type described in section (k)(5) of the Act:

investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Thus to the extent that the records in this system can be disclosed without revealing the identity of a confidential source, they are not within the scope of this exemption and are subject to all the requirements of the Privacy Act.

The sections of the Act from which this system of records are exempt are in general those providing for indi-

vidual access to records. When such access would cause the identity of a confidential source to be revealed, it would impair the future ability of the Treasury Department to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information.

In addition, the systems are exempt from section (e)(1) which requires that the agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a statutory or executively ordered purpose. The Director finds that to fulfill the requirements of section (e)(1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

If any investigations within the scope of section (k)(5) become involved with civil and criminal matters, exemptions from the Act should also be asserted under sections (k) (2) or (j) (2).

BUREAU OF THE MINT

NOTICE OF RULES EXEMPTING CERTAIN SYSTEMS FROM REQUIREMENTS OF THE PRIVACY ACT

(a) *In general.* The Director of the Mint exempts investigatory files on theft of Mint property and examination reports of coins forwarded to the Mint by the U.S. Secret Service from certain subsections of 5 U.S.C. 552a, the Privacy Act of 1974. The purpose of the exemption is to maintain the confidentiality of investigatory material compiled for law enforcement purposes.

(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552(a)(k)(2), and pursuant to the authority vested in the Director of the Mint by paragraph 1.23(c) of subpart C of part 1 of subtitle A of title 31 of the *Code of Federal Regulations*.

(c) *Name of systems.* Examination Reports of Coins Forwarded to Mint from U.S. Secret Service and Investigatory Files on Theft of Mint Property.

(d) *Provisions from which exempted.* These two systems consist in large part

§ 1.36

of records generated by the U.S. Secret Service in connection with its responsibilities to enforce various criminal laws. Those records are described in 5 U.S.C. 552a(j) and are exempted from various provisions of the Privacy Act of 1974 by the Director of the U.S. Secret Service. To a lesser extent, these two systems also contain records generated and compiled by the Bureau of the Mint in assisting the U.S. Secret Service in its law enforcement efforts. Those records are described in 5 U.S.C. 552a(k)(2), the Privacy Act of 1974. Exemptions will be claimed for such records only where appropriate from the following provisions, subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of 5 U.S.C. 552a.

(e) *Reasons for claimed exemptions.* Those provisions of the Privacy Act would otherwise require the Bureau of the Mint to notify an individual of investigatory material maintained in a record pertaining to him, permit access to such record, permit request for its correction (section 552a(d), (e)(4) (G), (H) and (f)); make available to him any required accounting of disclosures made of the record (section 552a(c)(3)), publish the sources of records in the system (section 552a(e)(4) (I)); and screen records to insure that there is maintained only such information about an individual as is relevant to accomplish a required purpose of the Bureau (section 52a(e)(1)). Disclosure to an individual of investigatory material pertaining to him would hamper law enforcement by prematurely disclosing the knowledge of illegal activities and the evidentiary bases for possible enforcement actions. Furthermore, the disclosure of certain investigatory material compiled for law enforcement purposes may disclose investigative techniques and procedures, so that future law enforcement efforts would be hindered. Access to an accounting of disclosures of such records would have a similar detrimental effect on law enforcement. Accordingly, the Director of the Mint finds that the public interest and public policy in protecting the coinage and property of the United States require exemption from the stated sections of the Act to the extent that they are applicable to appropriate materials in these two systems.

31 CFR Subtitle A (7-1-00 Edition)

COMPTROLLER OF THE CURRENCY

NOTICE OF RULES EXEMPTING CERTAIN SYSTEMS OF RECORDS FROM THE REQUIREMENTS OF THE PRIVACY ACT

(a) *In general.* The Office of the Comptroller of the Currency exempts the following systems of records from certain provisions of the Privacy Act:

(1) Enforcement and Compliance Information;

(2) Federal Bureau of Investigation Report Card index;

(3) Chief Counsel's Management Information System.

The purpose of the exemption is to maintain confidentiality of data obtained from various sources that may ultimately accomplish a statutory or executively-ordered purpose.

(b) *Authority.* The authority to issue exemptions is vested in the Office of the Comptroller of the Currency, as a constituent unit of the Treasury Department, by 31 CFR 1.20 and 1.23(c).

(c) *Exemptions under 5 U.S.C. 552a(j)(2).* (1) Under 5 U.S.C. 552a(j)(2), the head of any agency may issue rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. Components of the Office of the Comptroller of the Currency are involved in the investigation of fraudulent or other illegal activities as well as other sensitive matters, in order to carry out their bank supervisory function. Exemptions will be claimed for such records only where appropriate.

(2) To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the above named systems of records, then the exemption under 5 U.S.C. 552a(k)(2) relating to investigatory material compiled for law enforcement purposes is claimed for certain records in the systems. Exemptions will be claimed for such records only where appropriate.

(3) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

5 U.S.C. 552a(c)(3) and (4)

5 U.S.C. 552a(d)(1), (2), (3), (4)
 5 U.S.C. 552a(e)(1), (2), and (3)
 5 U.S.C. 552a(e)(4)(G), (H), and (I)
 5 U.S.C. 552a(e)(5) and (8)
 5 U.S.C. 552a(f)
 5 U.S.C. 552a(g)

(d) *Exemptions under 5 U.S.C. 552a(k)(2).* (1) Under 5 U.S.C. 552a(k)(2), the head of any agency may issue rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled or law enforcement purposes.

(2) To the extent that information contained in the above-named systems has as its principal purpose the enforcement of criminal laws, the exemption for such information under 5 U.S.C. 552a(j)(2) is claimed.

(3) Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

5 U.S.C. 552a(c)(3)
 5 U.S.C. 552a(d)(1), (2), (3), and (4)
 5 U.S.C. 552a(e)(1)
 5 U.S.C. 552a(e)(4)(G), (H), and (I)
 5 U.S.C. 552a(f)

(e) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2).* (1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are the subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(2) 5 U.S.C. 552a(c)(4), (d)(1), (2), (3), and (4), (e)(4)(G) and (H), (f), and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the

agency procedures relating to access to records and the content of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. These systems are exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could: interfere with investigative and enforcement proceedings; interfere with co-defendants' rights to a fair trial; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by these sources; or disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive order. An exemption from the foregoing is needed:

(i) Because it is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance can be established.

(iii) In any investigation the Comptroller of the Currency may obtain information concerning violations of

§ 1.36

laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the Comptroller of the Currency should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

(iv) In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relates to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of the provision would impair investigations for the following reasons:

(i) In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources.

(ii) Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his activities.

(iii) The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the subject. This would afford the individual the opportunity to conceal any criminal activities in order to avoid apprehension.

(iv) In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

31 CFR Subtitle A (7-1-00 Edition)

(6)(i) 5 U.S.C. 552a(e)(3) requires that an agency must inform the subject of an investigation who is asked to supply information of:

(A) The authority under which the information is sought and whether disclosure of the information is mandatory or voluntary,

(B) The purposes for which the information is intended to be used,

(C) The routine uses which may be made of the information, and

(D) The effects on the subject, if any, of not providing the requested information.

(ii) The reasons for exempting these systems of records from the foregoing provision are as follows:

(A) The disclosure to the subject of the investigation as stated in paragraph (e)(6)(i)(B) would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(B) If the subject were informed as required by this provision, it could seriously interfere with information-gathering activities by requiring disclosure of sources of information and, therefore, impairing the successful conclusion of the investigation.

(C) Individuals may be contacted during preliminary information-gathering in investigations before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

(7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about an individual. Since the law defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed in a logical order which objectively proves or disproves suspected

behavior on the part of the suspect. Material which may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

(8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The notice requirement of this provision could prematurely reveal an ongoing investigation to the subject of the investigation.

(f) *Documents exempted.* Exemption will be claimed for certain records only where appropriate under the above provisions.

OFFICE OF THRIFT SUPERVISION

NOTICE OF EXEMPT SYSTEMS

In accordance with 5 U.S.C. 552a (j) and (k), general notice is hereby given of rulemaking pursuant to the Privacy Act of 1974 by the Director, Office of Thrift Supervision, under authority delegated to him by the Secretary of the Treasury. The Director, Office of Thrift Supervision, exempts the systems of records identified in the paragraphs below from certain provisions of the Privacy Act of 1974 as set forth in such paragraphs.

a. *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to the provisions of 5 U.S.C. 552a(j)(2), the Director, Office of Thrift Supervision, hereby exempts certain systems of records, maintained by the Office of Thrift Supervision, from the provisions of 5 U.S.C. 552a(c) (3) and (4), (d) (1), (2), (3) and (4), (e) (1), (2), (3), (4)(G), (H) and (I), (5) and (8), (f) and (g).

1. *Exempt Systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(j)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph a. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the FEDERAL REGISTER

.001 — Confidential Individual Information System

.004 — Criminal Referral Database

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would give individuals an opportunity to learn whether they are the subject of an administrative investigation; this would compromise the ability of the OTS to complete investigations and to detect and apprehend violators of applicable laws in that individuals would thus be able (1) to take steps to avoid detection, (2) to inform co-conspirators of the fact that an investigation is being conducted, (3) to learn the nature of the investigation to which they are being subjected, (4) to learn the type of surveillance being utilized, (5) to learn whether they are the subject of investigation or identified law violators, (6) to continue or resume their illegal conduct without fear of detection upon learning that they are not in a particular system of records, and (7) to destroy evidence needed to prove a violation.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f)(2), (3) and (5) enable individuals to gain access to records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would compromise its ability to complete or continue administrative investigations and to detect and apprehend violators of applicable laws. Permitting access to records contained in the above-listed systems of records would provide individuals with significant information concerning the nature of the investigation, and this could enable them to avoid detection or apprehension in the following ways: (1) by discovering the collection of facts which would form the basis of an enforcement action, and (2) by enabling them to destroy evidence of wrongful conduct which would form the basis of an enforcement action. Granting access to on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could

enable individuals planning illegal activity to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing established investigative techniques and procedures. Further, granting access to investigative files and records could disclose the identities of confidential sources and other informers and the nature of the information which they supplied, thereby exposing them to possible reprisals for having provided information related to the activities of those individuals who are subjects of the investigative files and records; confidential sources and other informers might refuse to provide investigators with valuable information if they could not be secure in the knowledge that their identities would not be revealed through disclosure of either their names or the nature of the information they supplied, and this would seriously impair the ability of the OTS to carry out its mandate to enforce the applicable laws. Additionally, providing access to records contained in the above-listed systems of records could reveal the identities of individuals who compiled information regarding illegal activities, thereby exposing them to possible reprisals.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in paragraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The OTS believes that the reasons set forth in paragraph (b) above are equally applicable to this subparagraph and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient.

The OTS believes that application of this provision to the above-listed systems of records would impair the ability of other law enforcement agencies to make effective use of information provided by the OTS in connection with the investigation, detection and apprehension of violators of the laws enforced by those other law enforcement agencies. Making accountings of disclosure available to subjects would alert those individuals to the fact that another agency is conducting an investigation into their activities, and this could reveal the nature and purpose of that investigation, and the dates on which that investigation was active. Subjects possessing such knowledge would thereby be able to take appropriate measures to avoid detection or other apprehension by altering their operations, or by destroying or concealing evidence which would form the basis of an enforcement action. In addition, providing subjects with accountings of disclosure would inform those individuals of general information, and alert them that the OTS has information regarding their activities; this, in turn, would afford those individuals a better opportunity to take appropriate steps to avoid detection or apprehension.

(e) 5 U.S.C. 552a(c)(4) requires that an agency inform any person or other agency about any correction or notation of dispute made by the agency in accordance with 5 U.S.C. 552(d) of any record that has been disclosed to the person or agency if an accounting of the record was made. Since this provision is dependent on an individual's having been provided an opportunity to contest (seek amendment to) records pertaining to him, and since the above-listed systems of records are proposed to be exempted from those provisions of 5 U.S.C. 552a relating to amendments of records as indicated in paragraph (c) above, the OTS believes that this provision should not be applicable to the above-listed systems of records.

(f) 5 U.S.C. 552a(e)(4)(I) requires that an agency publish a public notice listing the categories of sources for information contained in a system of

records. The OTS believes that application of this provision to the above-listed systems of records could compromise its ability to conduct investigations and to identify, detect and apprehend violators of the applicable laws for the reasons that revealing sources for information could 1) disclose investigative techniques and procedures, 2) result in possible reprisal directed to informers by the subject under investigation, and 3) result in the refusal of informers to give information or to be candid with investigators because of the knowledge that their identities as sources might be disclosed.

(g) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3) includes "collect" and "disseminate." At the time that information is collected by the OTS, there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the OTS; in many cases information collected may not be immediately susceptible to a determination whether the information is relevant and necessary, particularly in the early stages of an investigation, and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation, prove to have particular relevance to an enforcement program of OTS. Further, not all violations of law discovered during an OTS administrative investigation fall within the investigative jurisdiction of OTS; in order to promote effective law enforcement, OTS is often required to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The OTS therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(1).

(h) 5 U.S.C. 552a(e)(2) requires that an agency collect information to the greatest extent practicable directly

from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The OTS believes that application of this provision to the above-listed systems of records would impair the ability of OTS to conduct investigations and to identify, detect and apprehend violators of applicable laws for the following reasons: (1) most information collected about an individual under investigation is obtained from third parties such as witnesses and informers, and it is usually not feasible to rely upon the subject of the investigation as a source for information regarding his activities, (2) an attempt to obtain information from the subject regarding an investigation will often alert the subject to the existence of such an investigation, thereby affording him an opportunity to conceal his activities so as to avoid apprehension, (3) in certain instances individuals are not required to supply information to investigators as a matter of legal duty, and (4) during investigations it is often a matter of sound investigative procedures to obtain information from a variety of sources in order to verify information already obtained.

(i) 5 U.S.C. 552a(e)(3) requires that an agency inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual, of the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary; the principal purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effects on the individual of not providing all or part of the requested information. The OTS believes that the above-listed systems of records should be exempted from this provision in order to avoid adverse effects on its ability to identify, detect and apprehend violators of applicable laws. In many cases, information is obtained from confidential sources and other individuals under circumstances where it is necessary that the true purpose of their actions be kept secret so as not

to alert the subject of the investigation or his associates that an investigation is in progress. In many cases, individuals for personal reasons would feel inhibited in talking to a person representing a law enforcement agency but would be willing to talk to a confidential source or a person who they believed was not involved in enforcement activity. In addition, providing information in this system with written evidence of who was the source, as required by this provision, could increase the likelihood that the source of information would be the subject of retaliatory action by the subject of the investigation. Further, application of this provision could result in an unwarranted invasion of the personal privacy of the subject of the investigation, particularly where further investigation would result in a finding that he was not involved in unlawful activity.

(j) 5 U.S.C. 552a(e)(5) requires that an agency maintain all records used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Since 5 U.S.C. 552a(a)(3) defines "maintain" to include "collect" and "disseminate," application of this provision to the above-listed systems of records would hinder the initial collection of any information which could not, at the moment of collection, be determined to be accurate, relevant, timely and complete. Similarly, application of this provision would seriously restrict the necessary flow of information from the OTS to other law enforcement agencies where an OTS investigation revealed information pertaining to a violation of law which was under the investigative jurisdiction of another agency. In collecting information during the course of an administrative investigation, it is not possible or feasible to determine accuracy, relevance, timeliness or completeness prior to collection of the information; in disseminating information to other law enforcement agencies it is often not possible to determine accuracy, relevance, timeliness or completeness prior to dissemination because the disseminating agency may not have the expertise with which to

make such determinations. Further, information which may initially appear inaccurate, irrelevant, untimely or incomplete may, when gathered, grouped, and evaluated with other available information, become more pertinent as an investigation progresses. The OTS therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(5).

(k) 5 U.S.C. 552a(e)(8) requires that an agency make reasonable efforts to serve notice on an individual when any record on the individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The OTS believes that the above-listed systems of records should be exempt from this provision in order to avoid revealing investigative techniques and procedures outlined in those records and in order to prevent revelation of the existence of an on-going investigation where there is a need to keep the existence of the investigation secret.

(l) 5 U.S.C. 552a(g) provides civil remedies to an individual for an agency refusal to amend a record or to make a review of a request for amendment, for an agency refusal to grant access to a record, for an agency failure to maintain accurate, relevant, timely and complete records which are used to make a determination which is adverse to the individual, and for an agency failure to comply with any other provision of 5 U.S.C. 552a in such a way as to have an adverse effect on an individual. The OTS believes that the above-listed systems of records should be exempted from this provision to the extent that the civil remedies provided therein may be related to provisions of 5 U.S.C. 552a from which the above-listed systems of records are proposed to be exempt. Since the provisions of 5 U.S.C. 552a enumerated in paragraphs (a) through (k) above are proposed to be inapplicable to the above-listed systems of records for the reasons stated therein, there should be no corresponding civil remedies for failure to comply with the requirements of those provisions to which the exemption is proposed to apply. Further, the OTS believes that the application of this provision to the above-listed systems

of records would adversely affect its ability to conduct investigations by exposing to civil court actions every stage of the investigative process in which information is compiled or used in order to identify, detect, apprehend and otherwise investigate persons suspected or known to be engaged in conduct in violation of applicable laws.

b. *Specific exemptions under 5 U.S.C. 552a(k)(2).* Pursuant to the provisions of 5 U.S.C. 552a(k)(2), the OTS hereby exempts certain systems of records, maintained by the OTS from the provisions of 5 U.S.C. 552a(c)(3), (d)(1), (2), (3) and (4), (e)(1) and (4)(G), (H) and (I) and (f).

1. *Exempt Systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(k)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph b. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the FEDERAL REGISTER:

.001 — Confidential Individual Information System

.004 — Criminal Referral Database

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would impair the ability of the OTS to successfully complete investigations and inquiries of suspected violators of laws and regulations under its jurisdiction. In many cases investigations and inquiries into violations of laws and regulations involve complex and continuing patterns of behavior. Individuals, if informed that they have been identified as the subject of an investigation, would have an opportunity to take measures to prevent detection of illegal action so as to avoid prosecution or the imposition of civil sanctions. They would also be able to learn the nature and location of the investigation and the type of inquiry being made, and they would be able to transmit this knowledge to co-conspirators. Finally, subjects might be given the opportunity to destroy evidence needed to prove the violation under investigation or inquiry.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f)(2), (3) and (5) enable individuals to gain access to records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would impair its ability to complete or continue investigations and inquiries and to detect and apprehend violators of the applicable laws. Permitting access to records contained in the above-listed systems of records would provide subjects with significant information concerning the nature of the investigation or inquiry. Knowledge of the facts developed during an investigation or inquiry would enable violators of laws and regulations to learn the extent to which the investigation or inquiry has progressed, and this could provide them with an opportunity to destroy evidence that would form the basis for the imposition of civil sanctions. In addition, knowledge gained through access to investigatory material could alert a subject to the need to temporarily postpone commission of the violation or to change the intended point where the violation is to be committed so as to avoid detection or apprehension. Further, access to investigatory material would disclose investigative techniques and procedures which, if known, could enable individuals to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing investigators' established and effective investigative tools and procedures. In addition, investigatory material may contain the identity of confidential sources who would not want their identity to be disclosed for reasons of personal privacy or for fear of reprisal at the hands of the individual about whom they supplied information. In some cases mere disclosure of the information provided by a source would reveal the identity of the source either through the process of elimination or by virtue of the nature of the information supplied. If sources could not be assured that their identities (as sources for information) would remain confidential, they would be very reluctant in the future to provide information pertaining to violations of laws and regulations, and this would seriously compromise the ability of the

§ 1.36

OTS to carry out its mission. Further, application of 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f)(2), (3) and (5) to the above-listed systems of records would make available attorney's work product and other documents which contain evaluations, recommendations, and discussions of ongoing legal proceedings; the availability of such documents could have a chilling effect on the free flow of information and ideas within the OTS which is vital to the agency's predecisional deliberative process, could seriously prejudice the agency's or the Government's position in litigation, and could result in the disclosure of investigatory material which should not be disclosed for the reasons stated above. It is the belief of the OTS that due process will assure that individuals have a reasonable opportunity to learn of the existence of, and to challenge, investigatory records and related materials which are to be used in legal proceedings.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in subparagraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The OTS believes that the reasons set forth in subparagraph (b) above are equally applicable to this subparagraph, and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. The OTS believes that application of this provision to the above-listed systems of records would impair the ability of the OTS and other law enforcement agencies to conduct investigations and inquiries into potential violations under their

31 CFR Subtitle A (7-1-00 Edition)

respective jurisdictions. Making accountings available to subjects would alert those individuals to the fact that the OTS or another law enforcement authority is conducting an investigation or inquiry into their activities, and such accountings could reveal the geographic location of the investigation or inquiry, the nature and purpose of the investigation or inquiry and the nature of the information disclosed, and dates on which that investigation or inquiry was active. Subjects possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, transferring their activities to other locations or destroying or concealing evidence which would form the basis for prosecution or the imposition of civil sanctions.

(e) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3) includes "collect" and "disseminate." At the time that information is collected by the OTS there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the OTS; in many cases information collected may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early stages of investigation or inquiry; and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation or inquiry, prove to have particular relevance to an enforcement program of the OTS. Further, not all violations of law uncovered during an OTS investigation or inquiry fall within the jurisdiction of the OTS; in order to promote effective law enforcement it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The OTS therefore

Office of the Secretary of the Treasury

Pt. 1, Subpt. C, App. A

believes that it is appropriate to exempt the above-listed systems of records from provisions of 5 U.S.C. 552a(e)(1).

[40 FR 45692, Oct. 2, 1975, as amended at 44 FR 7141, Feb. 6, 1979; 44 FR 42189, July 19, 1979; 45 FR 13455, Feb. 29, 1980; 48 FR 21945, May 16, 1983; 48 FR 48460, Oct. 19, 1983; 52 FR 11990, Apr. 14, 1987; 56 FR 12447, Mar. 26, 1991; 59 FR 47538, Sept. 16, 1994; 61 FR 387, Jan. 5, 1996; 62 FR 19505, Apr. 22, 1997; 62 FR 26939, May 16, 1997; 62 FR 58908, Oct. 31, 1997; 62 FR 60782, Nov. 13, 1997; 64 FR 62586, Nov. 17, 1999]

APPENDICES TO SUBPART C

APPENDIX A—DEPARTMENTAL OFFICES

1. *In general.* This appendix applies to the Departmental Offices as defined in 31 CFR part 1, subpart C, §1.20. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records, the officers designated to make the initial and appellate determinations with respect to requests for amendment of records, the officers designated to grant extensions of time on appeal, the officers with whom "Statement of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e)(4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Departmental Offices, will be made by the head of the organizational unit having immediate custody of the records requested, or the delegate of such official. This information is contained in the appropriate system notice in the "Privacy Act Issuances", published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records should be addressed to:

Privacy Act Request, DO, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Requests may be delivered personally to the Main Treasury Building, Room 5030, 1500 Pennsylvania Avenue NW., Washington, DC.

3. *Requests for amendments of records.* Initial determinations under 31 CFR 1.27(a) through (d) with respect to requests to amend records for records maintained by the Departmental

Offices will be made by the head of the organization or unit having immediate custody of the records or the delegate of such official. Requests for amendment of records should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send these requests should be addressed to: Privacy Act Amendment Request, DO, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

4. *Administrative appeal of initial determination refusing to amend record.* Appellate determinations under 31 CFR 1.27(e) with respect to records of the Departmental Offices, including extensions of time on appeal, will be made by the Secretary, Deputy Secretary, Under Secretary, General Counsel, or Assistant Secretary having jurisdiction over the organizational unit which has immediate custody of the records, or the delegate of such official, as limited by 5 U.S.C. 552a(d) (2) and (3). Appeals made by mail should be addressed as indicated in the letter of initial decision or to:

Privacy Act Amendment Request, DO Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Appeals may be delivered personally to the Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC.

5. *Statements of disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e)(4) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the General Counsel of the Department of the Treasury or the delegate of such official and shall be delivered to the following location:

General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records required to be published by the Office of the Federal Register in the publication entitled "Privacy Act Issuances", as specified in 5 U.S.C. 552a (f). Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 and 8 of this appendix, and locations for access are indicated in the notice for the pertinent system.

8. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the Departmental Offices on any such request:

(i) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish identity by the presentation of a single official document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and signature (such as a driver's license or credit card).

(ii) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other official document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses.

Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request, if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

APPENDIX B—INTERNAL REVENUE SERVICE

1. *Purpose.* The purpose of this section is to set forth the procedures that have been established by the Internal Revenue Service for individuals to exercise their rights under the Privacy Act of 1974 (88 Stat. 1896) with respect to systems of records maintained by the Internal Revenue Service, including the Office of the Chief Counsel. The procedures contained in this section are to be promulgated under the authority of 5 U.S.C. 552a(f). The procedures contained in this section relate to the following:

(a) The procedures whereby an individual can be notified in response to a request if a system of records named by the individual contains a record pertaining to such individual (5 U.S.C. 552a(f)(1)).

(b) The procedures governing reasonable times, places, and requirements for identifying an individual who requests a record of information pertaining to such individual before the Internal Revenue Service will

make the record or information available to the individual (5 U.S.C. 552a (f)(2)).

(c) The procedures for the disclosure to an individual upon a request of a record of information pertaining to such individual, including special procedures for the disclosure to an individual of medical records, including psychological records. (5 U.S.C. 552a (f)(3)).

(d) The procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the Internal Revenue Service of an initial adverse agency determination, and for whatever additional means may be necessary for individuals to be able to exercise fully their right under 5 U.S.C. 552a (5 U.S.C. 552a (f)(4)).

Any individual seeking to determine whether a system of records maintained by any office of the Internal Revenue Service contains a record or information pertaining to such individual, or seeking access to, or amendment of, such a record, must comply fully with the applicable procedure contained in paragraph (3) or (4) of this section before the Internal Revenue Service will act on the request. Neither the notification and access (or accounting of disclosures) procedures under paragraph (3) of this section nor the amendment procedures under paragraph (4) of this section are applicable to (i) systems of records exempted pursuant to 5 U.S.C. 552a (j) and (k), (ii) information compiled in reasonable anticipation of a civil action or proceeding (see 5 U.S.C. 552a (d)(5)), or (iii) information pertaining to an individual which is contained in, and inseparable from, another individual's record.

2. *Access to and amendment of tax records.* The provisions of the Privacy Act of 1974 may not be used by an individual to amend or correct any tax record. The determination of liability for taxes imposed by the Internal Revenue Service Code, the collection of such taxes, and the payment (including credits or refunds of overpayments) of such taxes are governed by the provisions of the Internal Revenue Service Code and by the procedural rules of the Internal Revenue Service. These provisions set forth the established procedures governing the determination of liability for tax, the collection of such taxes, and the payment (including credits or refunds of overpayments) of such taxes. In addition, these provisions set forth the procedures (including procedures for judicial review) for resolving disputes between taxpayers and the Internal Revenue Service involving the amount of tax owed, or the payment or collection of such tax. These procedures are the exclusive means available to an individual to contest the amount of any liability for tax or the payment or collection thereof. See, for example, 26 CFR 601.103 for summary of general tax procedures. Individuals are advised

that Internal Revenue Service procedures permit the examination of tax records during the course of an investigation, audit, or collection activity. Accordingly, individuals should contact the Internal Revenue Service employee conducting an audit or effecting the collection of tax liabilities to gain access to such records, rather than seeking access under the provisions of the Privacy Act. Where, on the other hand, an individual desires information or records not in connection with an investigation, audit, or collection activity, the individual may follow these procedures.

3. *Procedures for access to records*—(a) *In general.* This paragraph sets forth the procedure whereby an individual can be notified in response to a request if a system of records named by the individual which is maintained by the Internal Revenue Service contains a record pertaining to such individual. In addition, this paragraph sets forth the procedure for the disclosure to an individual upon a request of a record or information pertaining to such individual, including the procedures for verifying the identity of the individual before the Internal Revenue Service will make a record available, and the procedure for requesting an accounting of disclosures of such records. An individual seeking to determine whether a particular system of records contains a record or records pertaining to such individual and seeking access to such records (or seeking an accounting of disclosures of such records) shall make a request for notification and access (or a request for an accounting of disclosures) in accordance with the rules provided in paragraph 3(b) of this section.

(b) *Form of request for notification and access or request for an accounting of disclosures.* (i) A request for notification and access (or request for an accounting of disclosures) shall be made in writing and shall be signed by the person making the request.

(ii) Such request shall be clearly marked, "Request for notification and access," or "Request for accounting of disclosures."

(iii) Such a request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g., husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the name and location of the particular system of records (as set forth in the Notice of Systems) for which the individual is seeking notification

and access (or an accounting of disclosures), and the title and business address of the official designated in the access section for the particular system (as set forth in the Notice of Systems). In the case of two or more systems of records which are under the control of the same designated official at the same systems location, a single request may be made for such systems. In the case of two or more systems of records which are not in the control of the same designated official at the same systems location, a separate request must be made for each such system.

(vi) If an individual wishes to limit a request for notification and access to a particular record or records, the request should identify the particular record. In the absence of a statement to the contrary, a request for notification and access for a particular system of records shall be considered to be limited to records which are currently maintained by the designated official at the systems location specified in the request.

(vii) If such request is seeking notification and access to material maintained in a system of records which is exempt from disclosure and access under 5 U.S.C. 552a (k)(2), the individual making the request must establish that such individual has been denied a right, privilege, or benefit that such individual would otherwise be entitled to under Federal law as a result of the maintenance of such material.

(viii) Such request shall state whether the individual wishes to inspect the record in person, or desires to have a copy made and furnished without first inspecting it. If the individual desires to have a copy made, the request must include an agreement to pay the fee for duplication ultimately determined to be due. If the individual does not wish to inspect a record, but merely wishes to be notified whether a particular system or records contains a record pertaining to such individual, the request should so state.

(c) *Time and place for making a request.* A request for notification and access to records under the Privacy Act (or a request for accounting of disclosures) shall be addressed to or delivered in person to the office of the official designated in the access section for the particular system of records for which the individual is seeking notification and access (or an accounting of disclosures). The title and office address of such official is set forth for each system of records in the Notice of Systems of Records. A request delivered to an office in person must be delivered during the regular office hours of that office.

(d) *Sample request for notification and access to records.* The following are sample requests for notification and access to records which will satisfy the requirements of this paragraph:

Pt. 1, Subpt. C, App. B

31 CFR Subtitle A (7-1-00 Edition)

**REQUEST FOR NOTIFICATION AND ACCESS TO
RECORDS BY MAIL**

I, John Doe, of 100 Main Street, Boston, MA 02108 (soc. sec. num. 000-00-0000) request under the Privacy Act of 1974 that the following system of records be examined and that I be furnished with a copy of any record (or a specified record) contained therein pertaining to me. I agree that I will pay the fees ultimately determined to be due for duplication of such record. I have enclosed the necessary information.

System Name:

System Location:

Designated Official:

John Doe

**REQUEST FOR NOTIFICATION AND ACCESS TO
RECORDS IN PERSON**

I, John Doe, of 100 Main Street, Boston, MA 02108 (soc. sec. num. 000-00-0000) request under the provisions of the Privacy Act of 1974, that the following system of records be examined and that I be granted access in person to inspect any record (or a specified record) contained therein pertaining to me. I have enclosed the necessary identification.

System Name:

System Location:

Designated Official:

John Doe

(e) *Processing a request for notification and access to records or a request for an accounting of disclosures.* (i) If a request for notification and access (or request for an accounting of disclosures) omits any information which is essential to processing the request, the request will not be acted upon and the individual making the request will be promptly advised of the additional information which must be submitted before the request can be processed.

(ii) Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request for notification and access (or a request for an accounting of disclosures), to a particular system of records by the designated official for such system, a determination will be made as to whether the particular system of records is exempt from the notification and access provisions of the Privacy Act, and if such system is not exempt, whether it does or does not contain a record pertaining to the individual making the request. If a determination cannot be made within 30 days, the individual will be notified of the delay, the reasons therefor, and the approximate time required to make a determination. If it is determined by the designated official that the particular system of records is exempt from the notification and access provisions of the Privacy Act, the individual making the re-

quest will be notified of the provisions of the Privacy Act under which the exemption is claimed. On the other hand, if it is determined by the designated official that the particular system of records is not exempted from the notification and access provisions of the Privacy Act and that such system contains a record pertaining to the individual making the request, the individual will be notified of the time and place where inspection may be made. If an individual has not requested that access be granted to inspect the record in person, but merely requests that a copy of the record be furnished, or if it is determined by the designated official that the granting of access to inspect a record in person is not feasible in a particular case, then the designated official will furnish a copy of the record with the notification, or if a copy cannot be furnished at such time, a statement indicating the approximate time such copy will be furnished. If the request is for an accounting of disclosures from a system of records which is not exempt from the accounting of disclosure provisions of the Privacy Act, the individual will be furnished with an accounting of such disclosures.

(f) *Granting of access.* Normally, an individual will be granted access to inspect a record in person within 30 days (excluding Saturdays, Sundays, and legal public holidays) after the receipt for a request for notification and access by the designated official. If access cannot be granted within 30 days, the notification will state the reasons for the delay and the approximate time such access will be granted. An individual wishing to inspect a record may be accompanied by another person of his choosing. Both the individual seeking access and the individual accompanying him may be required to sign a form supplied by the IRS indicating that the Service is authorized to disclose or discuss the contents of the record in the presence of both individuals. See 26 CFR 601.502 for requirements to be met by taxpayer's representatives in order to discuss the contents of any tax records.

(g) *Medical records.* When access is requested to medical records (including psychological records), the designated official may determine that release of such records will be made only to a physician designated by the individual to have access to such records.

(h) *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the IRS on any such request:

(i) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish

identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and signature (such as a driver's license or credit card).

(ii) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, or seeking to amend a record by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses.

(iv) Notwithstanding subdivisions (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request if such official determines that it is necessary to protect unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

(i) *Fees.* The fee for costs required of the IRS in copying records pursuant to this paragraph is \$0.15 per page. However, no fee will be charged if the aggregate costs required of the IRS in copying records is less than \$3.00. If an individual who has requested access to inspect a record in person is denied such access by the designated official because it would not be feasible in a particular case, copies of such record will be furnished to the individual without payment of the fees otherwise required under this subparagraph. If the IRS estimates that the total fees for costs incurred in complying with a request for copies of records will amount to \$50 or more, the individual making the request may be required to enter into a contract for the payment of the actual fees with respect to the request before the Service will furnish the copies requested. Payment of fees for copies of records should be made by check or money order payable to the Internal Revenue Service.

4. *Procedures for amendment of records.* (a) In general. This paragraph sets forth the procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to such individual, for making a determination on the

request, for making an appeal within the IRS of an initial adverse determination, and for judicial review of a final determination.

(b) *Amendment of record.* Under 5 U.S.C. 552a(d)(2), an individual who has been granted access to a record pertaining to such individual may, after inspecting the record, request that the record be amended to make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete. An individual may seek to amend a record in accordance with the rules provided in paragraph (d)(3) of this section. See paragraph (b) of this section for prohibition against amendment of tax records.

(c) *Form of request for amendment of record.*

(i) A request for amendment of a record shall be in writing and shall be signed by the individual making the request.

(ii) Such request shall be clearly marked "Request for amendment of record."

(iii) Such request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g., husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the name and location of the system of records (as set forth in the Notice of Systems) in which such record is maintained, and the title and business address of the official designated in the access section for such system (as set forth in the Notice of Systems).

(vi) Such request shall specify the particular record in the system which the individual is seeking to amend.

(vii) Such request shall clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reasons for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition.

(d) *Time and place for making request.* A request to amend a record under the Privacy Act shall be addressed to or delivered in person to the office of the official designated in the access section for the particular system of records. The title and office address of such official is set forth for each system of records in the Notice of Systems of Records. A request delivered to an office in person must be delivered during the regular office hours of that office.

(e) *Processing a request for amendment of a record.* (i) Within 10 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request to amend a record by the designated official, the individual will be sent a written acknowledgment that will state that the request has been received, that action is being taken thereon, and that the individual will be notified within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of the request whether the requested amendments will or will not be made. If a request for amendment of a record omits any information which is essential to processing the request, the request will not be acted upon and the individual making the request will be promptly advised on the additional information which must be submitted before the request can be processed.

(ii) Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request to amend a record by the designated official, a determination will be made as to whether to grant the request in whole or part. The individual will then be notified in writing of the determination. If a determination cannot be made within 30 days, the individual will be notified in writing within such time of the reasons for the delay and the approximate time required to make a determination. If it is determined by the designated official that the request will be granted, the requested changes will be made in the record and the individual will be notified of the changes. In addition, to the extent an accounting was maintained, all prior recipients of such record will be notified of the changes. Upon request, an individual will be furnished with a copy of the record, as amended, subject to the payment of the appropriate fees. On the other hand, if it is determined by the designated official that the request, or any portion thereof, will not be granted, the individual will be notified in writing of the adverse determination. The notification of an adverse determination will set forth the reasons for refusal to amend the record. In addition, the notification will contain a statement informing the individual of such individual's right to request an independent review of the adverse determination by a reviewing officer in the national office of the IRS and the procedures for requesting such a review.

(f) *Administrative review of adverse determination.* Under 5 U.S.C. 552a (d)(3), an individual who disagrees with the refusal of the agency to amend a record may, within 35 days of being notified of the adverse determination, request an independent review of such refusal by a reviewing officer in the national office of the IRS. The reviewing officer for the IRS is the Commissioner of Internal Revenue, the Deputy Commissioner, or an Assistant Commissioner. In the case of an

adverse determination relating to a system of records maintained by the Office of General Counsel for the IRS, the reviewing officer is the Chief Counsel or his delegate. An individual seeking a review of an adverse determination shall make a request for review in accordance with the rules provided in paragraph (d)(7) of this section.

(g) *Form of request for review.* (i) A request for review of an adverse determination shall be in writing and shall be signed by the individual making the request.

(ii) Such request shall be clearly marked "Request for review of adverse determination".

(iii) Such request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g. husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the particular record which the individual is seeking to amend, the name and location of the system of records (as set forth in the Notice of Systems) in which such record is maintained, and the title and business address of the designated official for such system (as set forth in the Notice of Systems).

(vi) Such request shall include the date of the initial request for amendment of the record, and the date of the letter notifying the individual of the initial adverse determination with respect to such request.

(vii) such request shall clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reasons for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition.

(h) *Time and place for making the request.* A request for review of an adverse determination under the Privacy Act shall be addressed to or delivered in person to the Director, Office of Disclosure, Attention: OP:EX:D Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. A request for review of an adverse determination will be promptly referred by the Director, Office of Disclosure to the appropriate reviewing officer for his review and final determination.

(i) *Processing a request for review of adverse determination.* Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request for review

of an adverse determination by the appropriate reviewing officer, the reviewing officer will review the initial adverse determination, make a final determination whether to grant the request to amend the record in whole or in part, and notify the individual in writing of the final determination. If a final determination cannot be made within 30 days, the Commissioner of Internal Revenue may extend such 30-day period. The individual will be notified in writing within the 30 day period of the cause for the delay and the approximate time required to make a final determination. If it is determined by the reviewing officer that the request to amend the record will be granted, the reviewing officer will cause the requested changes to be made and the individual will be so notified. Upon request, an individual will be furnished with a copy of the record as amended subject to the payment of appropriate fees. On the other hand, if it is determined by the reviewing officer that the request to amend the record, or any portion thereof, will not be granted, the individual will be notified in writing of the final adverse determination. The notification of a final adverse determination will set forth the reasons for the refusal of the reviewing officer to amend the record. The notification shall include a statement informing the individual of the right to submit a concise statement for insertion in the record setting forth the reasons for the disagreement with the refusal of the reviewing officer to amend the record. In addition, the notification will contain a statement informing the individual of the right to seek judicial review by a United States district court of a final adverse determination.

(j) *Statement of disagreement.* Under 5 U.S.C. 552a (d)(3), an individual who disagrees with a final adverse determination not to amend a record subject to amendment under the Privacy Act may submit a concise statement for insertion in the record setting forth the reasons for disagreement with the refusal of the reviewing officer to amend the record. A statement of disagreement should be addressed to or delivered in person to the Director, Office of Disclosure, Attention: OP:EX:D, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. The Director, Office of Disclosure will forward the statement of disagreement to the appropriate designated official who will cause the statement to be inserted in the individual's record. Any such statement will be available to anyone to whom the record is subsequently disclosed and the prior recipients of the record will be provided with a copy of the statement of disagreement, to the extent an accounting of disclosures was maintained.

(k) *Judicial review.* If, after a review and final determination on a request to amend a record by the appropriate reviewing officer,

the individual is notified that the request will not be granted, or if, after the expiration of 30 days (not including Sundays, Saturdays, and legal public holidays) from the receipt of such request by the Director, Disclosure Operations Division, action is not taken thereon in accordance with the requirements of paragraph (d)(9) of this section, an individual may commence an action within the time prescribed by law in a U.S. District Court pursuant to 5 U.S.C. 552a (g)(1). The statute authorizes an action only against the agency. With respect to records maintained by the IRS, the agency is the Internal Revenue Service, not an officer or employee thereof. Service of process in such an action shall be in accordance with the Federal Rules of Civil Procedure (28 U.S.C. App.) applicable to actions against an agency of the United States. Where provided in such Rules, delivery of process upon the IRS must be directed to the Commissioner of Internal Revenue, Attention: CC:GLS, 1111 Constitution Avenue, NW, Washington, DC 20224. The district court will determine the matter de novo.

5. *Records transferred to Federal Records Centers.* Records transferred to the Administrator of General Services for storage in a Federal Records Center are not used by the Internal Revenue Service in making any determination about any individual while stored at such location and therefore are not subject to the provisions of 5 U.S.C. 552a (e)(5) during such time.

APPENDIX C—UNITED STATES CUSTOMS SERVICE

1. *In general.* This appendix applies to the United States Customs Service. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officer designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accounting of disclosures.* (a) For records which are maintained at the United

Pt. 1, Subpt. C, App. D

States Customs Service Headquarters, initial requests for notification and access to records and accountings of disclosures under 31 CFR 1.26, should be mailed or personally delivered to the Director, Office of Regulations & Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. The official who has authority over the maintenance of the file will have the authority to grant or deny the request.

(b) For records maintained at Regional Offices, initial requests for notification and access to records and accountings of disclosures under 31 CFR 1.26, should be mailed or personally delivered to the Regional Commissioner of Customs in whose region the records are located. This official shall have the authority to grant the request or deny the request. The appropriate location of the regional offices is specified in Customs Appendix A in "Privacy Act Issuances" published annually by the Office of the Federal Register.

(c) Each request shall comply with the identification and other requirements set forth in 31 CFR 1.26, and in the appropriate system notice in the "Privacy Act Issuances" published annually by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Request".

3. *Request for amendment of records.* (a) For records which are maintained at Customs Service Headquarters, initial requests for amendment of records under 31 CFR 1.27 (a) through (d) should be mailed or personally delivered to the Director, Office of Regulations & Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. The official who has authority over the maintenance of the file will have the authority to grant or deny the request.

(b) For records not maintained at Customs Service Headquarters, initial requests for amendment of records under 31 CFR 1.27 (a) through (d) should be mailed or personally delivered to the Regional Commissioner of Customs in whose region the records are located. This official shall have the authority to grant or deny the request. A request directed to a Regional Commissioner should be mailed to or personally delivered at the appropriate location specified in Customs Appendix A in "Privacy Act Issuances" published annually by the Office of the Federal Register.

(c) Each request shall comply with the identification and other requirements set forth in 31 CFR 1.27, and in the appropriate system notice in "Privacy Act Issuance" published by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Amendment Request".

4. *Administrative appeal of initial determination refusing to amend records.* Appellate determinations (including extensions of time

31 CFR Subtitle A (7-1-00 Edition)

on appeal under 31 CFR 1.27 (e) with respect to all Customs Service records will be made by the Director, Office of Regulations & Rulings or the delegate of such official. All such appeals should be mailed or personally delivered to the United States Customs Service, Office of Regulations & Rulings, 1301 Constitution Avenue NW., Washington, DC 20229. Each appeal should be conspicuously labeled on the face of the envelope "Privacy Act Amendment Appeal".

5. *Statements of disagreement.* "Statements of Disagreement" pursuant to 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Chief Counsel, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

7. *Annual notice of systems of records.* The annual notice of the United States Customs Service systems of records required to be published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f), is included in the publication entitled "Privacy Act Issuances".

8. *Verification of identity.* Each request shall comply with the identification and other requirements set forth in 31 CFR 1.26 and in the appropriate system notice published by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Request".

APPENDIX D—UNITED STATES SECRET SERVICE

1. *In general.* This appendix applies to the United States Secret Service. It sets forth specific notification and access procedures with respect to particular systems of records including identification requirements, and time and places where records may be reviewed; identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

Office of the Secretary of the Treasury

Pt. 1, Subpt. C, App. E

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the United States Secret Service, will be made by the Freedom of Information and Privacy Act Officer, United States Secret Service. Requests for notification should be made by mail or delivered personally between the hours of 9:00 a.m. and 5:30 of any day excluding Saturdays, Sundays, and legal holidays to: Privacy Act Request, Freedom of Information and Privacy Act Officer, United States Secret Service, Room 720, 1800 G Street NW., Washington, DC 20223.

a. *Identification requirements.* In addition to the requirements specified in 31 CFR 1.26, each request for notification, access or amendment of records made by mail shall contain the requesting individual's date and place of birth and a duly notarized statement signed by the requester asserting his or her identity and stipulating that the requesting individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretences is punishable by a fine of up to \$5,000.

b. *Individuals making requests in person.* Individuals making requests in person will be required to exhibit acceptable identifying documents such as employee identification numbers, drivers licenses, medical cards or other documents sufficient to verify the identity of the requester.

c. *Physical inspection of records.* Upon determining that a request for the physical inspection of records is to be granted, the requester shall be notified in writing of the determination, and when and where the requested records may be inspected. The inspection of records will be conducted at the Secret Service field office or other facility located nearest to the residence of the individual making the request. Such inspection shall be conducted during the regular business hours of the Secret Service Field Office or other facility where the disclosure is made. A person of his or her own choosing may accompany the individual making the request provided the individual furnishes a written statement authorizing the disclosure of that individual's record in the accompanying person's presence. Any disclosure of a record will be made in the presence of a representative of the United States Secret Service.

3. *Requests for amendment of records.* Initial determination under 31 CFR part 1, whether to grant requests to amend records will be made by the Freedom of Information and Privacy Act Officer. Requests should be mailed or delivered personally between the hours of 9:00 a.m. and 5:30 p.m. to: Privacy Act Amendment Request, Freedom of Information and Privacy Acts Officer, United

States Secret Service, Room 720, 1800 G Street NW., Washington, DC 20223.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27 including extensions of time on appeal, with respect to records of the United States Secret Service will be made by the Assistant Secretary of the Treasury for Enforcement. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Assistant Secretary of the Treasury for Enforcement, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

5. *Statements of disagreement.* "Statements of Disagreements" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing of the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the United States Secret Service General Counsel and shall be delivered to the following location: General Counsel, United States Secret Service, Room 843, 1800 G Street NW., Washington, DC 20223.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

APPENDIX E—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

1. *In general.* This appendix applies to the Bureau of Alcohol, Tobacco and Firearms. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a (3) (4) and (11) and published annually by

the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determination under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Bureau of Alcohol, Tobacco, and Firearms, will be made by the Chief, Disclosure Branch, Office of the Assistant to the Director or the delegate of such officer. Requests may be mailed or delivered in person to: Privacy Act Request, Chief, Disclosure Branch, Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

3. *Requests for amendment of record.* Initial determinations under 31 CFR 1.27 (a) through (d) with respect to requests to amend records maintained by the Bureau of Alcohol, Tobacco and Firearms will be made by the Chief, Disclosure Branch, Office of the Assistant to the Director. Requests for amendment of records may be mailed or delivered in person to: Privacy Act Request, Chief, Disclosure Branch, Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

4. *Verification of identity.* (a) In addition to the requirements specified in 31 CFR 1.26(d) of this appendix, each request for notification, access or amendment of records made by mail shall contain the requesting individual's date and place of birth and a statement signed by the requester asserting his or her identity and stipulating that the requester understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is a misdemeanor and punishable by a fine of up to \$5,000 provided, that the Bureau of Alcohol, Tobacco and Firearms may require a signed notarized statement verifying the identity of the requester.

(b) Individuals making requests in person will be required to exhibit at least two acceptable identifying documents such as employee identification cards, driver's license, medical cards, or other documents sufficient to verify the identity of the requester.

(c) The parent or guardian of a minor or a person judicially determined to be incompetent, shall in addition to establishing the identity of the minor or other person he represents as required in (a) and (b), establish his own parentage or guardianship by furnishing a copy of a birth certificate showing parentage (or other satisfactory documentation) or a court order establishing the guardianship.

5. *Request for physical inspection of records.* Upon determining that a request for the physical inspection of records is to be granted, the requester shall be notified in writing of the determination, and when and where the records may be inspected. The inspection of records will be made at the Bureau of Al-

cohol, Tobacco and Firearms Field Office or other facility located nearest to the residence of the individual making the request. Such inspection shall be conducted during the regular business hours of the field office or other facility where the disclosure is made. A person of the requester's own choosing may accompany the requester provided the requester furnishes a written statement authorizing the disclosure of the requester's record in the accompanying person's presence. The record inspection will be made in the presence of a representative of the Bureau. Following the inspection of the record, the individual will acknowledge in writing the fact that he or she had an opportunity to inspect the requested record.

6. *Requests for copies of records without prior physical inspection.* Upon determining that an individual's request for copies of his or her records without prior physical inspection is to be granted, the requester shall be notified in writing of the determination, and the location and time for his or her receipt of the requested copies. The copies will be made available at the Bureau of Alcohol, Tobacco and Firearms field office or other facility located nearest to the residence of the individual making the request. Copies shall be received by the requester during the regular business hours of the field office or other facility where the disclosure is made. Transfer of the copies to the individual shall be conditioned upon payment of copying costs and his presentation of at least two acceptable identifying documents such as employee identification cards, driver's license, medical cards, or other documents sufficient to verify the identity of the requester. Following the receipt of the copies, the individual will acknowledge receipt in writing.

7. *Administrative appeal of initial determination refusing to amend record.* Appellate determinations under 31 CFR 1.27(e) with respect to records of the Bureau of Alcohol, Tobacco and Firearms, including extensions of time on appeal, will be made by the Director or the delegate of such officer. Appeals should be addressed to, or delivered in person to: Privacy Act Amendment Appeal, Director, Bureau of Alcohol, Tobacco and Firearms, Room 4406, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

8. *Statements of disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e) (4) shall be filed with the official signing the notification within 35 days of the date of such notification and should be limited to one page.

9. *Service of process.* Service of process will be received by the Director of the Bureau of Alcohol, Tobacco and Firearms or the delegate of such official and shall be delivered to the following location: Director, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226, Attention: Chief Counsel.

10. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for each pertinent system.

APPENDIX F—BUREAU OF ENGRAVING AND PRINTING

1. *In general.* This appendix applies to the Bureau of Engraving and Printing. It sets forth specific notification and access procedures with respect to particular systems of records including identification requirements, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a (e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances."

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Bureau of Engraving and Printing, will be made by the head of the organizational unit having immediate custody of the records requested, or the delegate of such official. Requests for access to records contained within a particular system of records should be submitted to the address indicated for that system in the access section of the notices published by the Office of the Federal Register in "Privacy Act Issuances." Requests for information and specific guidance should be addressed to: Privacy Act Request, Disclosure Officer (Executive Assistant to the Director), Room 104-18M, Bureau of Engraving and Printing, Washington, DC 20228.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant request to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official.

Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Disclosure Officer (Executive Assistant to the Director), Bureau of Engraving and Printing, Room 104-18M, Washington, DC 20228.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Bureau of Engraving and Printing will be made by the Director of the Bureau or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Disclosure Officer (Executive Assistant to the Director), Room 104-18M, Bureau of Engraving and Printing, Washington, DC 20228.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(8) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Chief Counsel of the Bureau of Engraving and Printing and shall be delivered to the following location: Chief Counsel, Bureau of Engraving and Printing, Room 109-M, 14th and C Streets, SW., Washington, DC 20228.

7. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, or seeking an accounting of disclosures, must satisfy one of the following identification requirements before action will be taken by the Bureau of Engraving and Printing on any such request:

(i) An individual appearing in person may establish identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph, but do bear both a name and signature (such as a credit card).

(ii) An individual may establish identity through the mail by a signature, address, and one other identifier such as a photocopy of a driver's license or other document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(l)(3) for

requesting or obtaining access to records under false pretenses.

Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, the Executive Assistant or other designated official may require additional proof of an individual's identity before action will be taken on any request if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

8. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 522a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

APPENDIX G—FINANCIAL MANAGEMENT SERVICE

1. *In general.* This appendix applies to the Financial Management Service. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Financial Management Service, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific

cific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Disclosure Officer, Financial Management Service, Room 108, Treasury Department Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC 20226.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27(a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Disclosure Officer, Financial Management Service, Department of the Treasury, Treasury Annex No. 1, Washington, DC 20226.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Financial Management Service will be made by the Commissioner or the delegate of such official. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal Commissioner, Financial Management Service (Privacy), Department of the Treasury, Room 618, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC 20226.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Commissioner, Financial Management Service or the delegate of such official and shall be delivered to the following location: Commissioner, Financial Management Service (Privacy), Department of the Treasury, Room 618, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW, Washington, DC 20226.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

APPENDIX H—UNITED STATES MINT

1. *In general.* This appendix applies to the United States Mint. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the United States Mint will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests should be directed to the Superintendent or Officer in charge of the facility in which the records are located or to the Chief, Administrative Programs Division. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, N.W., Washington, DC 20220.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the Mint installation having immediate custody of the records or the delegated official. Requests should be mailed or delivered personally to: Privacy Act Amendment Request, Freedom of Information and Privacy Acts Officer, United States Mint, Judiciary Square Building, 633 3rd Street, Washington, DC 20220.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27 including extensions of time on appeal, with respect to

records of the United States Mint will be made by the Director of the Mint or the delegate of the Director. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Director of the Mint and shall be delivered to the following location: Director of the Mint, Judiciary Square Building, 633 3rd street, NW., Washington, DC 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

APPENDIX I—BUREAU OF THE PUBLIC DEBT

1. *In general.* This appendix applies to the Bureau of the Public Debt. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officer designated to grant extension of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Bureau of Public Debt, will be made by the head of the organizational unit having

immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Information Officer, Bureau of the Public Debt, Department of the Treasury, 999 E Street NW, Room 553, Washington, DC 20239.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Information Officer, Bureau of the Public Debt, Department of the Treasury, 999 E Street NW., Room 553, Washington, DC 20239.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Bureau of the Public Debt will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Chief Counsel, Bureau of the Public Debt, Department of the Treasury, 999 E Street NW., Room 503, Washington, DC 20239.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Chief Counsel of the Bureau of the Public Debt and shall be delivered to the following location: Chief Counsel, Bureau of the Public Debt, Department of the Treasury, 999 E Street, NW., Room 503, Washington, DC 20239.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

APPENDIX J—OFFICE OF THE COMPTROLLER OF THE CURRENCY

1. *In general.* This appendix applies to the Office of the Comptroller of the Currency. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26 whether to grant requests for notification and access to records and accountings of disclosures for the Office of the Comptroller of the Currency will be made by the head of the organizational unit having immediate custody of the records requested or the delegate of that official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published biennially by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

3. *Requests for amendment of records.* Initial determinations under 31 CFR 1.27 (a) through (d) whether to grant requests to amend records will be made by the Comptroller's delegate or the head of the organizational unit having immediate custody of the records or the delegate of that official. Requests for amendment shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Office of the Comptroller of

the Currency will be made by the Comptroller of the Currency or the Comptroller's delegate. Appeals shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(i) shall be filed with the OCC's Director of Communications at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process shall be delivered to the Chief Counsel or the Chief Counsel's delegate at the following location: Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

[52 FR 26305, July 14, 1987, as amended at 60 FR 57333, Nov. 15, 1995]

APPENDIX L—FEDERAL LAW ENFORCEMENT TRAINING CENTER

1. *In general.* This appendix applies to the Federal Law Enforcement Training Center. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosure of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register, in "Privacy Act Issuances".

2. *Requests for notification and access to records and accounting of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accounting of disclosures for the

Federal Law Enforcement Training Center, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Library Building 262, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

3. *Requests for amendment of records.* Initial determinations under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Federal Law Enforcement Training Center will be made by the Assistant Secretary (Enforcement), Department of the Treasury or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, FLETC, Assistant Secretary (Enforcement), Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 4312, Washington, DC 20220.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the General Counsel of the Department of the Treasury or the delegate of such official and shall be delivered to the following location: General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26

Pt. 1, Subpt. C, App. L

31 CFR Subtitle A (7-1-00 Edition)

and 1.27 are indicated in the notice for the pertinent system.

[52 FR 26305, July 14, 1987. Redesignated at 65 FR 2334, Jan. 14, 2000]

**APPENDIX M—OFFICE OF THRIFT
SUPERVISION**

1. *In general.* This appendix applies to the Office of Thrift Supervision. It sets forth specific notification and access procedures with respect to particular systems of records, and identifies the officers designated to make the initial determinations with respect to notification and access to records, the officers designated to make the initial and appellate determinations with respect to requests for amendment of records, the officers designated to grant extensions of time on appeal, the officers with whom "Statement of Disagreement" may be filed, the officer designated to receive services of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published biennially by the Office of the Federal Register in "Privacy Act Issuances."

2. *Requests for notification and access to records and accounting of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Office of Thrift Supervision, will be made by the head of the organizational unit having immediate custody of the records requested, or the delegate of such official. This information is contained in the appropriate system notice in the "Privacy Act Issuances," published biennially by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records should be addressed to: Privacy Act Request, Chief, Disclosure Branch, Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Requests may be delivered in person to: Office of Thrift Supervision, Information Services Division, 1700 G Street, NW., Washington, DC.

3. *Requests for amendments of records.* Initial determinations under 31 CFR 1.27 (a) through (d) with respect to requests to amend records maintained by the Office of Thrift Supervision will be made by the head of the organization or unit having immediate custody of the records or the delegates of such official. Requests for amendment of records should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send these

requests should be addressed to: Privacy Act Amendment Request, Chief, Disclosure Branch, Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Privacy Act Amendment Requests may be delivered in person to: Office of Thrift Supervision, Information Services Division, 1700 G Street, NW., Washington, DC.

4. *Administrative appeal of initial determination refusing to amend record.* Appellate determination under 31 CFR 1.27(e) with respect to records of the Office of Thrift Supervision, including extensions of time on appeal, will be made by the Director, Public Affairs, Office of Thrift Supervision, or the delegate of such official, as limited by 5 U.S.C. 552a(d) (2) and (3). Appeals made by mail should be addressed as indicated in the letter of initial decision or to: Privacy Act Amendment Request, Chief, Disclosure Branch, Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Appeals may be delivered in person to: Office of Thrift Supervision, Information Services Division, 1700 G Street, NW., Washington, DC.

5. *Statements of Disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e)(4) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Corporate Secretary of the Office of Thrift Supervision or the delegate of such official and shall be delivered to the following location: Corporate Secretary, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

7. *Annual notice of systems of record.* The annual notice of systems of records required to be published by the Office of the Federal Register is included in the publication entitled "Privacy Act Issuances," as specified in 5 U.S.C. 552a(f). Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 and (8) below, and locations for access are indicated in the notice for the pertinent system.

8. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the Office of Thrift Supervision on any such request:

(i) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish identity by the presentation of a single official document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear

both a name and signature (such as a driver's license or credit card).

(ii) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other official document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, or seeking to amend a record by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses. Alternatively, an individual may provide a statement that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses which is subscribed by the individual as true and correct under penalty of perjury pursuant to 28 U.S.C. 1746. Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request, if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

[60 FR 31633, June 16, 1995. Redesignated at 65 FR 2334, Jan. 14, 2000]

PART 2—NATIONAL SECURITY INFORMATION

Subpart A—Original Classification

Sec.

- 2.1 Classification levels [1.1(a)].
- 2.2 Classification Authority.
- 2.3 Listing of original classification authorities.
- 2.4 Record requirements.
- 2.5 Classification categories.
- 2.6 Duration of classification.
- 2.7 Identification and markings [1.5(a), (b) (c)].
- 2.8 Limitations on classification [1.6(c)].

Subpart B—Derivative Classification

- 2.9 Derivative Classification Authority.
- 2.10 Listing derivative classification authorities.
- 2.11 Use of derivative classification [2.1].

- 2.12 Classification guides.
- 2.13 Derivative identification and markings [1.5(c) and 2.1(b)].

Subpart C—Downgrading and Declassification

- 2.14 Listing downgrading and declassification authorities [3.1(b)].
- 2.15 Declassification policy [3.1].
- 2.16 Downgrading and declassification markings.
- 2.17 Systematic review for declassification [3.3].
- 2.18 Mandatory declassification review [3.4].
- 2.19 Assistance to the Department of State [3.3(b)].
- 2.20 Freedom of Information/Privacy Act requests [3.4].

Subpart D—Safeguarding

- 2.21 General [4.1].
- 2.22 General restrictions on access [4.1].
- 2.23 Access by historical researchers and former presidential appointees [4.3].
- 2.24 Dissemination [4.1(d)].
- 2.25 Standards for security equipment [4.1(b) and 5.1(b)].
- 2.26 Accountability procedures [4.1(b)].
- 2.27 Storage [4.1(b)].
- 2.28 Transmittal [4.1(b)].
- 2.29 Telecommunications and computer transmissions.
- 2.30 Special access programs [1.2(a) and 4.2(a)].
- 2.31 Reproduction controls [4.1(b)].
- 2.32 Loss or possible compromise [4.1(b)].
- 2.33 Responsibilities of holders [4.1(b)].
- 2.34 Inspections [4.1(b)].
- 2.35 Security violations.
- 2.36 Disposition and destruction [4.1(b)].
- 2.37 National Security Decision Directive 197.

Subpart E—Implementation and Review

- 2.38 Departmental management.
- 2.39 Bureau administration.
- 2.40 Emergency planning [4.1(b)].
- 2.41 Emergency authority [4.1(b)].
- 2.42 Security education [5.3(a)].

Subpart F—General Provisions

- 2.43 Definitions [6.1].

AUTHORITY: 31 U.S.C. 321; E.O. 12958, 60 FR 19825, 3 CFR, 1995 Comp., p. 333.

SOURCE: 55 FR 1644, Jan. 17, 1990, unless otherwise noted.